



# Staff Report

PLANNING DIVISION  
DEPARTMENT of COMMUNITY and NEIGHBORHOODS

---

To: Salt Lake City Appeals Hearing Officer

From: Amy Thompson, [amy.thompson@slcgov.com](mailto:amy.thompson@slcgov.com) or 801-535-7281

Date: October 3, 2019 (Publication Date)

Re: PLNAPP2019-00278 – Appeal of an Administrative Decision to Deny a Permit to relocate a Billboard – *Building Permit BLD2018-06867*

---

## Appeal of Administrative Decision

PROPERTY ADDRESS: **Billboard Pole (“Existing Billboard”)** approximately 643 S 400 West  
PARCEL ID: 15-01-380-017  
PARCEL DISTRICT: CG (General Commercial District)  
ZONING ORDINANCE SECTIONS:

- 21A.46.160 Billboards
- 21A.16 Appeals of Administrative Decisions

APPELLANT: YESCO Outdoor Media, represented by Mike Helm

### APPEAL ISSUE:

Salt Lake City made an administrative decision to deny a request by YESCO Outdoor Media to **relocate a billboard pole (“existing billboard”) from its current location of approximately 643 S 400 West**, to a proposed new location at approximately 342 W 1300 South.

### ATTACHMENTS:

- A. [Administrative Decision Letter](#)
- B. [Appeal Application and Arguments](#)
- C. [Salt Lake City Attorney’s Response to Appeal Arguments](#)
- D. [Photos & Maps](#)

## ATTACHMENT A: Administrative Decision Letter

JACQUELINE M. BISKUPSKI  
Mayor



DEPARTMENT of COMMUNITY  
and NEIGHBORHOODS  
PLANNING DIVISION

July 18, 2019

**VIA Email and Registered Mail, Return Receipt Requested**

Mike Helm  
YESCO Outdoor Media  
1605 S. Gramercy Road  
Salt Lake City, Utah 84104

**Re: Response to Letter Dated June 24, 2019, Regarding Amendment and Updated Request to Relocate YESCO 11018 Billboard, Log. No. BLD2018-06867**

Dear Mr. Helm,

Salt Lake City Corporation (the "City") received your letter dated June 24, 2019, in which YESCO Outdoor Media ("YESCO") submitted a new request to relocate a billboard pole ("Existing Billboard") that is currently located at 643 S. 400 W. ("Current Location"). The City previously received, and denied YESCO's request to relocate the Existing Billboard from the Current Location to 643 W. 800 S.

In YESCO's letter dated June 24, 2019, it is now requesting to move the Existing Billboard from the Current Location to 342 W. 1300 S ("1300 S. Location"). As a preliminary matter, it appears that the 1300 S. Location may be more than 5,280 feet away from the Current Location, in which case the new relocation request is denied because it does not meet the requirements of Utah Code § 10-9a-513(2)(b)(iv).

In the event YESCO can show the 1300 S. Location is within 5,280 feet of the Current Location, the City nonetheless denies the relocation request. Under Utah Code § 10-9a-513(2)(b)(i) a billboard owner may "rebuild, maintain, repair, or restore a billboard structure that is damaged by casualty, an act of god, or vandalism." Under Utah Code § 10-9a-513(2)(b)(iv) a billboard owner may "relocate a billboard into any commercial, industrial, or manufacturing zone within the municipality's boundaries, if the relocated billboard is (A) within 5,280 feet of the billboard's previous location; and (B) no closer than 300 feet" to another billboard. These subsections are separated by the word "or," which means they are separate and distinct options and an application like YESCO's that attempts to combine both does not qualify and does not trigger the requirements of Utah Code § 10-9a-513(2)(a) and (d), including compensation for a denial.

Since YESCO claims the billboard was damaged by an act of god and is in need of repair, the City will consider a new application from YESCO that requests rebuilding the billboard at the Current Location, under Utah Code § 10-9a-513(2)(b)(i). But no application to relocate to the 1300 S. Location can be considered at this time because YESCO does not have an existing functioning billboard at the Current Location. If YESCO files a new application and rebuilds the Existing Billboard, the City will consider a new request to relocate under Utah Code § 10-9a-513(2)(b)(iv).

Finally, the City considers the Existing Billboard to have been abandoned for at least 12 months under Utah Code § 10-9a-513(3)(a)(ii)(C), because the structure has only been a pole, with no face or advertising of any kind, for over two years. Thus, this letter also serves as notice to YESCO under Utah Code 10-9a-513(3)(b) that the Existing Billboard is abandoned and YESCO must remedy the abandonment within 180 days after receipt of this letter or the City will require removal of the billboard.

For these reasons, YESCO's request to relocate the Existing Billboard to the 1300 S. Location is denied. Please feel free to contact me with questions.

Sincerely,



Joel Paterson  
Zoning Administrator  
Salt Lake City Corporation

cc: Patrick Leary, Chief of Staff  
Nick Norris, Salt Lake City Planning Director  
Doug Dansie, Senior Planner

YOM 00014

## ATTACHMENT B: Appeal Application & Arguments



# Appeal of a Decision

SALT LAKE CITY PLANNING

### OFFICE USE ONLY

Project # Being Appealed:	Received By: <i>CHRIS EARL</i>	Date Received: <i>8/1/2019</i>
---------------------------	-----------------------------------	-----------------------------------

Appealed decision made by:

Planning Commission       Administrative Decision       Historic Landmark Commission

Appeal will be forwarded to:

Planning Commission       Appeal Hearing Officer       Historic Landmark Commission

Project Name:  
*YESCO BILLBOARD*

### PLEASE PROVIDE THE FOLLOWING INFORMATION

Decision Appealed:  
Administrative Decision of Zoning Administrator Joel Patterson denying application to relocate YESCO Outdoor Media's Billboard 11018. Log No. BLD2018-06867

Address of Subject Property:  
*Existing Location 643 S. 400 W. - New Location 342 W. 1300 S.*

Name of Appellant:  
YESCO Outdoor Media

Phone:  
[REDACTED]

Address of Appellant:  
*1005 S Gramercy Rd., Salt Lake City, UT 84108*

E-mail of Appellant:  
mhelm@yesco.com

Cell/Fax:  
[REDACTED]

Name of Property Owner (if different from appellant):

E-mail of Property Owner:  
same

Phone:  
same

Appellant's Interest in Subject Property:  
An outdoor, off-premises billboard (Billboard 11018)

### AVAILABLE CONSULTATION

Please call (801) 535-7700 if you have any questions regarding the requirements of this application.

### APPEAL PERIODS

An appeal shall be submitted within ten (10) days of the decision.

### REQUIRED FEE

Filing fee of \$259, plus additional fee for required public notices.  
Additional fees for multiple

### SIGNATURE

If applicable, a notarized statement of consent authorizing applicant to act as an agent will be required.

Signature of Owner or Agent:

*John Huth*, Attorney for YESCO  
Parr Brown Gee & Lovelass, 101 S. 200 E, Salt Lake City, Utah 84111

Date:

8/1/2019

**SUBMITTAL REQUIREMENT**

*jmatkine@parrbrown.com*

A written description of the alleged error and the reason for this appeal.

See attached YESCO OUTDOOR MEDIA STATEMENT OF APPEAL OF ADMINISTRATIVE DECISION DENYING APPLICATION TO RELOCATE BILLBOARD 11018, LOG No. BLD2018-06867

**WHERE TO FILE THE COMPLETE APPLICATION**

**Mailing Address:** Planning Counter  
PO Box 145471  
Salt Lake City, UT 84114

**In Person:** Planning Counter  
451 South State Street, Room 215  
Telephone: (801) 535-7700

**INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED**

*John Huth*

I acknowledge that Salt Lake City requires the items above to be submitted before my application can be processed. I understand that Planning will not accept my application unless all of the following items are included in the submittal package.

**Additional Guidelines for Those Appealing a Planning Commission or Landmarks Commission Decision**

A person who challenges a decision by the Planning Commission or the Landmarks Commission bears the burden of showing that the decision made by the commission was in error.

The hearing officer, according to state statute, must assume that the decision is correct and only reverse it if it is illegal or not supported by substantial evidence in the record.

“Substantial evidence” means information that is relevant to the decision and credible. Substantial evidence does not include public clamor and emotion. It involves facts and not mere speculation. A witness with particular expertise can provide substantial evidence, but conjecture and public opinion alone are not substantial evidence.

The “record” includes information, including the application by the person seeking approval, the staff report, the minutes of the meeting, and any information submitted to the commission by members of the public, the applicant or others, before the decision was made. It does not include facts or opinion, even expert opinion, expressed after the decision is made or which was not available to the commission at the time the decision was made.

A decision is “illegal” if it is contrary to local ordinance, state statute or case law, or federal law. An applicant is entitled to approval if the application complies with the law, so a person challenging a denial should show that the application complied with the law; a person challenging an approval should show that the application did not conform to the relevant law. Issues of legality are not restricted to the record of the decision, but the facts supporting or opposing the decision are limited to those in the record.

With regard to the factual information and evidence that supports a decision, the person bringing the appeal, according to a long line of decisions handed down by the Utah State Supreme Court and the Court of Appeals, has a burden to “marshal the evidence” and then to demonstrate that the evidence which has been marshaled is not sufficient to support the decision.

The appellant is therefore to:

1. Identify the alleged facts which are the basis for the decision, and any information available to the commission when the decision is made that supports the decision. Spell it out. For example, your statement might begin with: “The following information and evidence may have been relied upon by the Commission to support their decision . . .”
2. Show why that basis, including facts and opinion expressed to the commission is either irrelevant or not credible. Your next statement might begin with: “The information and evidence which may have been relied upon cannot sustain the decision because . . .”

If the evidence supporting the decision is not marshaled and responded to, the hearing officer cannot grant your appeal. It may be wise to seek the advice of an attorney experienced in local land use regulation to assist you.



**YESCO OUTDOOR MEDIA STATEMENT OF APPEAL OF ADMINISTRATIVE  
DECISION DENYING APPLICATION TO RELOCATE BILLBOARD 11018,  
LOG No. BLD2018-06867**

**BACKGROUND**

YESCO Outdoor Media (“YESCO”) filed an application in November 2017 to relocate billboard number 11018 (the “Billboard 11018”) from its current location at 643 S. 400 W. (“Current Location”). Billboard 11018 was severely damaged by an act of God on or about June 12, 2017 when the face of the sign was destroyed in an unusually fierce windstorm. Copies of photographs of the sign before and after the damage are attached. The original application sought to relocate Billboard 11018 to 643 W. 800 S. which is the location of the business known as the Fear Factory (the “Fear Factory Property”). Copies of the application, correspondence, and other relevant documents are attached. This application was not acted upon by the City for many months. Finally, on April 10, 2019, Joel Patterson, Zoning Administrator, on behalf of Salt Lake City (“the City”) wrote to YESCO informing it that Billboard 11018 could not be relocated to the Fear Factory Property unless an existing billboard was removed because the proposed location did not otherwise meet the 500 foot spacing requirements between billboards on the Fear Factory Property. A copy of Mr. Patterson’s letter is attached. The City provided no other basis upon which to preliminarily dispute YESCO’s application other than it being within 500 feet of an existing billboard. YESCO responded to that letter on or about April 22, 2019 and disputed the City’s position because YESCO had filed another application to relocate the Fear Factory billboard (“Billboard 11003”) as was its’ right because Billboard 11003 was no longer “clearly visible” as defined by Utah Code Ann. 10-9a-513(1)(a) from all lanes of travel on I-15 as a result of a UDOT highway project. Consequently, with the relocation of Billboard 11003, the 500 foot spacing requirement between the two billboards would be met.

However, in order to avoid a dispute with Salt Lake City regarding this issue, YESCO identified a new location whereupon to relocate Billboard 11018. The new property is located at 342 W. 1300 S., Salt Lake City. The new location is owned by Utah Capital Properties, LLC (“UCP Property”) and occupied by the Nightmare on 13<sup>th</sup> Haunted House. A copy of a new site plan showing the proposed location of Billboard 11018 on the UCP Property is attached. Consequently, YESCO filed an amendment to its application on June 24, 2019 requesting City’s approval to relocate Billboard 11018 to the UCP Property. The City responded by letter sent Certified Mail, postmarked July 23, 2019, issuing a final administrative denial of YESCO’s amended application on two grounds: 1) the UCP Property location “may be” more than 5,280 feet from the existing location; and 2) Utah Code Ann. §10-9(a)-513(2) does not permit a billboard to be both rebuilt and relocated, rather it only permits Billboard 11018 to be rebuilt on the same property. The City’s denial presents a factual question and a legal question. Because the new location is within 5,280 of the existing location and Utah’s statutory code does not force a billboard owner to choose between relocation and rebuilding a signed damaged by an act of God, YESCO appeals the City’s denial of its application.

The appeal is timely filed because the denial was postmarked on July 23, 2019 – within 10 days of the date of this appeal. See attached email from Joel Patterson dated July 26, 2019

(confirming July 23, 2019 letter was date of the final decision and the appeal deadline is August 2, 2019).

## ARGUMENT

### **I. THE NEW LOCATION IS WITHIN 5,280 FEET OF THE EXISTING LOCATION.**

First, the new location for Billboard 11018 is within 5,280 feet of the existing location. Attached is a radius map and linear measurement showing the distance between the two points is within a mile. The exact distance is 5,223 feet, more or less (measured from the existing billboard's pole to the sidewalk on 1300 South). Utah Code Ann. §10-9a-513(2)(b)(iv)(A) permits the relocation of a billboard "within 5,280 feet of the billboard's previous location". The City provided no factual basis to support its' assertion that the new location "may be" more than 5,280 feet away from the existing location. Because the City is simply wrong about the distance and offers no evidence to support its speculation on the actual distance between the two locations, the first basis upon which the denial is based is erroneous and should be overturned.

Second, the City claims that because subsection (i) and subsection (iv) are "separated by the word 'or,'" they are necessarily "separate and distinct options" that cannot be requested together and that the denial of such a request does not entitle YESCO to relocate Billboard 11018 and rebuild it. This presents a clear issue of statutory interpretation of the Utah Municipal Code contained within Part 5, Land Use Regulations of the Utah Code. The City's legal interpretation of the Utah Code is entitled to no deference.

### **II. UTAH CODE ANN. §10-9a-513(2)(b) AUTHORIZES A BILLBOARD OWNER TO REBUILD A BILLBOARD DAMAGED BY AN ACT OF GOD AND RELOCATE A BILLBOARD.**

The City misinterprets the plain language and clear intent of Utah Code Ann. §10-9a-513(2)(b) by interpreting an "or" as exclusive rather than inclusive. The City's denial places an extraordinary weight on the word "or," and fails to cite any authority for the proposition that Section 10-9a-513(2)(b) should be read so restrictively and fails to recognize what are referred to as the inclusive disjunctive and exclusive disjunctive uses of "or."

#### **A. "Or" Can Be Used as an Inclusive and Exclusive Disjunction.**

The denial assumes that the conjunction "or" has only one meaning. This is incorrect - "or" has a number of different uses and can be used in both an inclusive and an exclusive sense:

The English word 'or' is ambiguous, having two related but distinguishable meanings. One of them is exemplified in the statement 'Premiums will be waived in the event of sickness or unemployment.' The intention here is obviously that premiums are waived not only for sick person and for unemployed persons, but also for persons who are *both sick and* unemployed. This sense of the word 'or' is called *weak* or *inclusive*. An inclusive disjunction is true in case one or the other or both disjuncts are true; only if both disjuncts are false is there inclusive disjunction false.

The inclusive ‘or’ has the sense of ‘either, possibly both.’ Where precision is at a premium, as in contracts or other legal documents, this sense is made explicit by the use of the phrase ‘and/or.’ The word ‘or’ is also used in a *strong* or *exclusive* sense, in which the meaning is not ‘at least one’ but ‘at least one and at most one.’ Where a restaurant lists ‘salad or dessert’ on its dinner menu, it is clearly meant that, for the stated price of the meal, the diner may have one or the other *but not both*. **Where precision is at a premium and the exclusive sense ‘or’ is intended, the phrase ‘but not both’ is usually added.**

See Irving M. Copi and Carl Cohen, *Introduction to Logic* 304 (11th ed. 2002) (emphasis added). Both of these uses of “or” are part of the word’s ordinary meaning.

Courts have recognized these two distinct uses of the word “or.” See, e.g., *Hansen v. U.S. Bank, Nat’l Ass’n*, 2016 WL 7105865, at \*4 (D. Idaho Dec. 5, 2016) (“[A] disjunctive ‘or’ can come in both exclusive and inclusive forms. When used in the exclusive disjunctive sense, ‘or’ indicates that one or the other of the listed things can be true, but not both. When used in the inclusive disjunctive sense, ‘or’ indicates that one or more of the listed things can be true.”); *Burke v. State ex rel. Dep’t of Land Conservation & Dev.*, 352 Or. 428, 290 P.3d 790, 794 (2012) (“To say that ‘or’ is ‘disjunctive’ is true enough. But authorities agree that a disjunctive connector can have either an ‘inclusive’ or an ‘exclusive’ sense. Thus, ‘A or B’ can mean one or the other, but not both. But it can also mean one or the other, or both.” (citing Bryan A. Garner, *A Dictionary of Modern Legal Usage* 624 (2d ed. 1995))); *DietGoal Innovations LLC v. Chipotle Mex. Grill, Inc.*, 2015 WL 164072, at \*3 (E.D. Tex. Jan. 13, 2015) (“It is well recognized that the word ‘or’ can be used in either an inclusive or an exclusive sense, depending on context. That is, the term ‘or’ can mean ‘A or B, but not both,’ or it can mean ‘A or B, or both.’” (internal citations omitted)).

Moreover, Courts have recognized that absent some contrary indication, legislative bodies often employ “or” in its inclusive sense. In a recent opinion from the Delaware Supreme Court, Chief Justice Leo Strine, Jr. observed: “But in this case, Congress used the word ‘either’ in concert with ‘or.’ The statute’s use of the ‘either/or’ construct suggests that Congress intended to use ‘or’ in the exclusive sense (*i.e.*, ‘P or Q, but not both’). In ordinary English, the phrase ‘P or Q’ on its own *often suggests the inclusive sense of ‘or,’* but the addition of the word ‘either’ before ‘P or Q’ weighs toward the exclusive use.” *Gonzalez v. State*, 207 A.3d 147, 157 (Del. 2019) (emphasis added). Similarly, when a party in a lawsuit asks for “documents or photographs” to be produced, the clear meaning of this request is to produce both documents and photographs, not one or the other. Therefore, the inclusive meaning of “or” can be deduced from the ordinary language being used and the absence of words indicating an exclusionary intent.

**B. “Or” is Used in Utah Code Ann. §10-9a-513(2)(b) as an Inclusive Disjunctive.**

A review of Utah Code Ann. §10-9a-513(2)(b) shows that “or” is used as an inclusive disjunctive. First, as set forth above, “or” has two well-attested meanings—an inclusive sense, and an exclusive sense—both of which are part of the ordinary use of the word.

Second, Section 10-9a-513(2)(b) does not use any of the specific language that would suggest the exclusive sense: “either . . . or” and “but not both” or “but not more than one,” etc. The legislature could have used language to clarify that an owner would have to choose between

its rights, but it did not. This should be sufficient evidence to conclude that the legislature did not intend to use “or” as an exclusive disjunctive.

Third, reading “or” in the exclusive sense would create bizarre results that the legislature could not have intended. For instance, consider a situation where a billboard was first relocated, and then immediately destroyed by an act of God. Under the City’s interpretation, since the billboard had been relocated pursuant to Section 10-9(a)513(2)(b), it could not then be rebuilt. Billboard owners are often required to relocate Billboards because leases expire or are terminated to make way for development. Consequently, the Utah legislature expressly permits an owner to relocate a billboard to another commercial, industrial, or manufacturing area as long as the billboard is within the same municipality and within 5,280 feet. *See* Utah Code Ann. §10-9a-513(2)(b)(iv). The intent behind this provision is to allow billboard owners to maintain their billboard rights even though a lease might expire. It makes no sense for the legislature to have intended to prohibit a billboard owner from being able to rebuild a billboard destroyed by an act of God at the end of the lease term. Also consider whether a billboard had been installed in an incorrect location for which the City issued a permit (10-9a-513(2)(b)(ii)) and then it was destroyed by an act of God. Under the City’s interpretation, the billboard could not be both relocated to the correct location and rebuilt which would mean that a billboard owner would effectively have to abandon its billboard. Additionally, Section 10-9a-513(2)(b)(iii) permits a billboard owner to “structurally modify or upgrade a billboard” upon written request. (emphasis added). Under the City’s exclusive interpretation of “or”, a billboard owner would not be entitled to structurally modify or upgrade a billboard destroyed by an act of God even though the owner would have that right regardless of whether the billboard was destroyed in a tornado, for instance. Thus, an owner would have the right to rebuild the billboard but not structurally modify or upgrade it to make it safer and less prone to destruction by other acts of God. These are all nonsensical results.

The City’s interpretation would eviscerate the clear intent of the legislature set forth in Section 10-9a-513(2)(b)- to allow owners to protect, improve, maintain and relocate their billboards in a number of different situations to avoid the very situation presented by the City’s argument here. Because billboards are under attack by municipalities throughout Utah (especially within the Salt Lake City), and the legislature granted billboard owner rights to improve, maintain, and relocate billboards, thereby prohibiting a municipality from using arguments like the one advanced by the City to eliminate billboards from its jurisdiction without paying just compensation. Indeed, the situation presented by this case is what the statutory scheme is intended to avoid – allowing a municipality to effectively eliminate a billboard by refusing to grant a permit to relocate and rebuild Billboard 11018 even though YESCO would have both of those rights independently pursuant to Section 10-9(a)-513(2)(b)(i) and (iv). The statutory scheme permits an owner to fix location problems, structurally modify or upgrade billboards, rebuild them in the event of destruction by an act of God “or” relocate a billboard into a commercial zone as long as it is within 5,280 feet of its current location. Reading “or” as exclusive destroys this legislative intent.

Fourth, “or” is used throughout Section 10-9(a)-513(2)(b) in the inclusive sense and there is no basis upon which to interpret “or” in any different way throughout the entire subsection. Section 10-9a-513(2)(a)(i) provides that a billboard owner may “rebuild, maintain, repair, **or** restore a billboard structure that is damaged by casualty, and act of God, **or** vandalism.” (emphasis

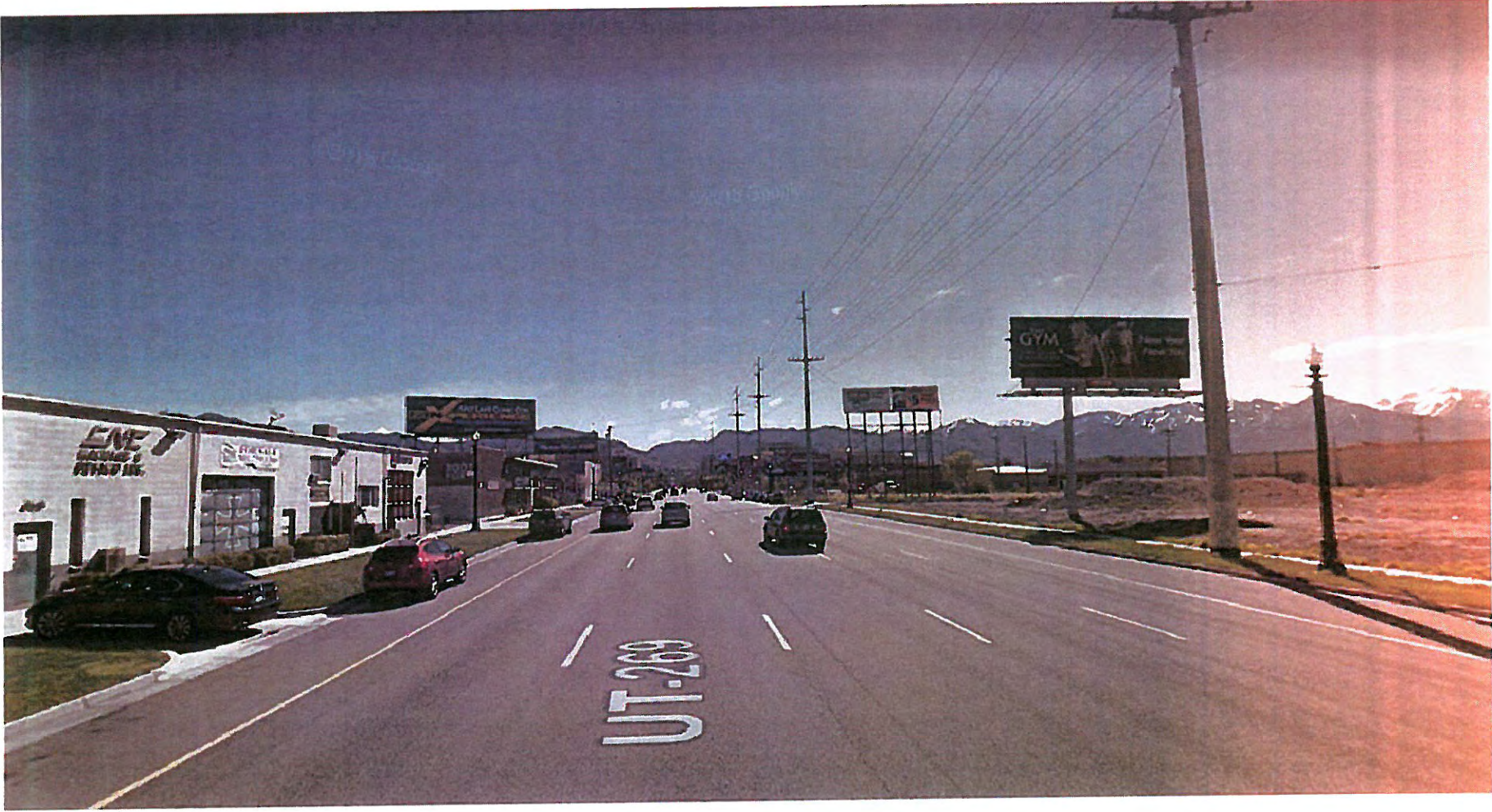
added). As used in this subsection, “or” is used twice in the inclusive sense. It would be nonsensical to interpret the subsection to mean that a billboard destroyed by an act of God could be repaired, but not maintained, or rebuilt but not maintained. Similarly, Subsection 10-9a-513(2)(b)(ii) provides that a billboard owner may “structurally modify **or** upgrade a billboard;” (emphasis added). The legislature could not have intended an owner to have to choose between modifying “or” upgrading a billboard given that it would be impossible to upgrade a billboard without modifying. Indeed, every subsection within Section 10-9a-513(2)(b) uses “or” with an inclusive meaning and there is no basis upon which to interpret use of “or” between subsections (iv) and (v) as any different that it is used within the individual subsections.

**CONCLUSION**

The City’s administrative decision denying YESCO’s application to relocate Billboard 11018 to the UCP Property is erroneous because it is based upon an incorrect factual assumption since the new location is located within 5,280 feet of the existing location and the City’s reading of “or” as exclusive within Section 10-9a-513(2)(b) is incorrect.

Dated this 1<sup>st</sup> day of August 2019.

  
\_\_\_\_\_  
Justin P. Matkin  
Parr Brown Gee & Loveless  
Attorneys for YESCO Outdoor Media



YOM 00001



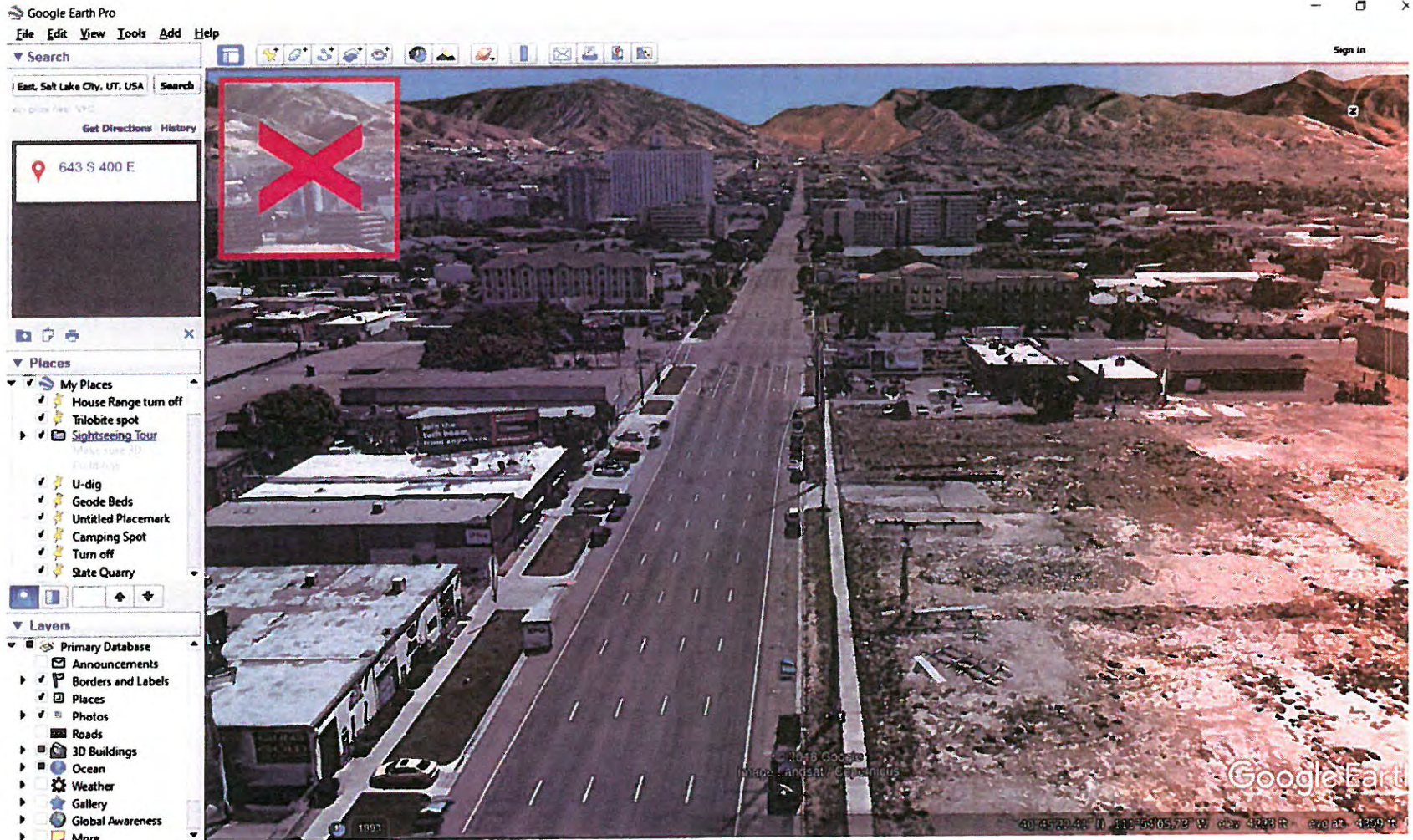
Google Earth

© 2018 Google  
© 2019 Google

9.73 ft



YOM 00002





YOM 00003

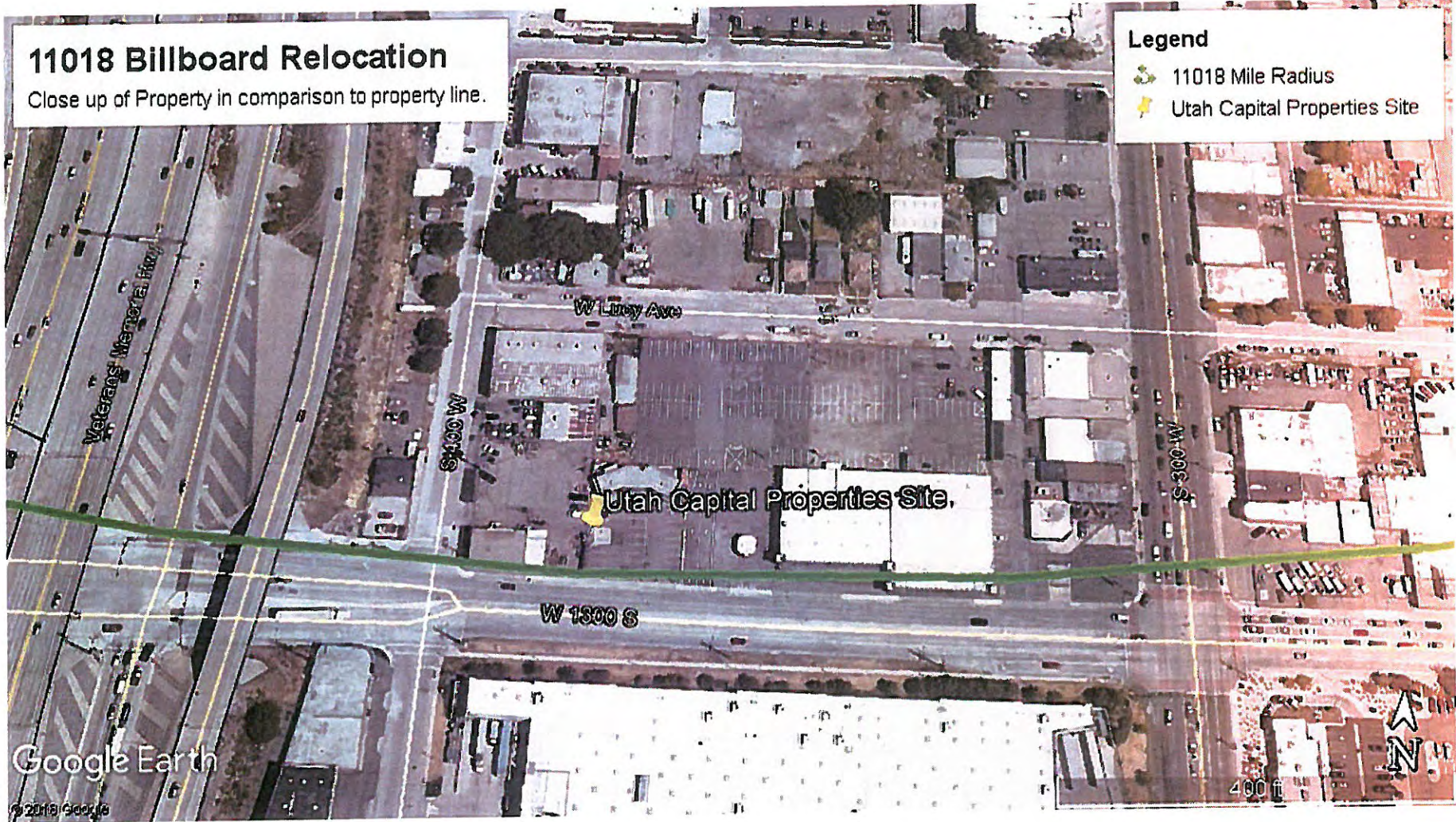


# 11018 Billboard Relocation

Close up of Property in comparison to property line.

## Legend

-  11018 Mile Radius
-  Utah Capital Properties Site



Google Earth


© 2018 Google

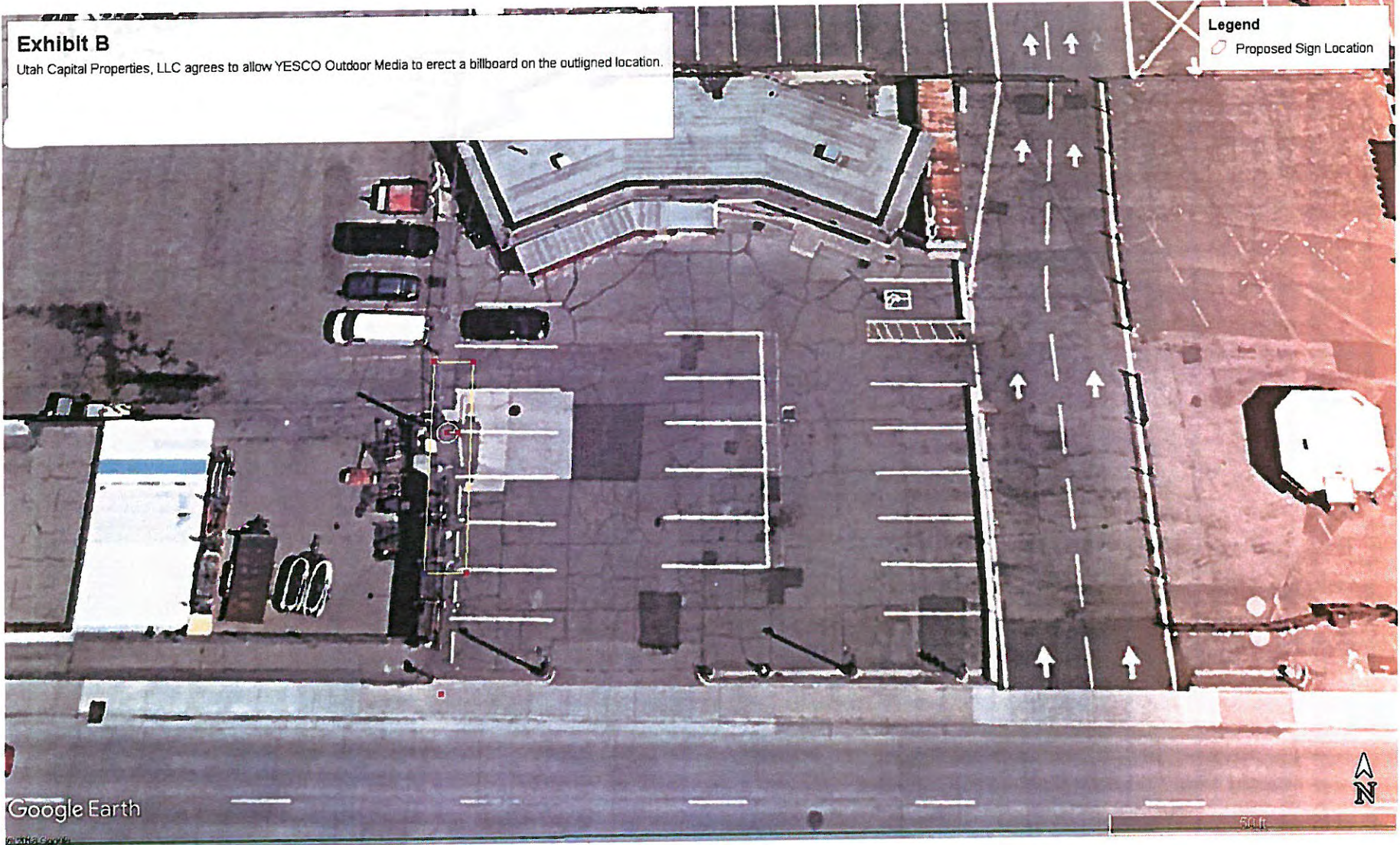
YOM 00004

**Exhibit B**

Utah Capital Properties, LLC agrees to allow YESCO Outdoor Media to erect a billboard on the outligned location.

**Legend**

 Proposed Sign Location



Google Earth



50 ft

YOM 00005

# 11018 Billboard Relocation

11018 Mile Radius

### Legend

-  11018 6th South Location
-  11018 Mile Radius
-  Utah Capital Properties Site



Google Earth

YOM 00006

643 S 400 E

- My Places
  - House Range turn off
  - Trilobite spot
  - Sightseeing Tour
  - U-dig
  - Geode Beds
  - Untitled Placemark
  - Camping Spot
  - Turn off
  - State Quarry

- Layers
  - Primary Database
    - Announcements
    - Borders and Labels
    - Places
    - Photos
    - Roads
    - 3D Buildings
    - Ocean
    - Weather
    - Gallery
    - Global Awareness
    - More



Ruler

Line Path Polygon Circle 3D path 3D pol

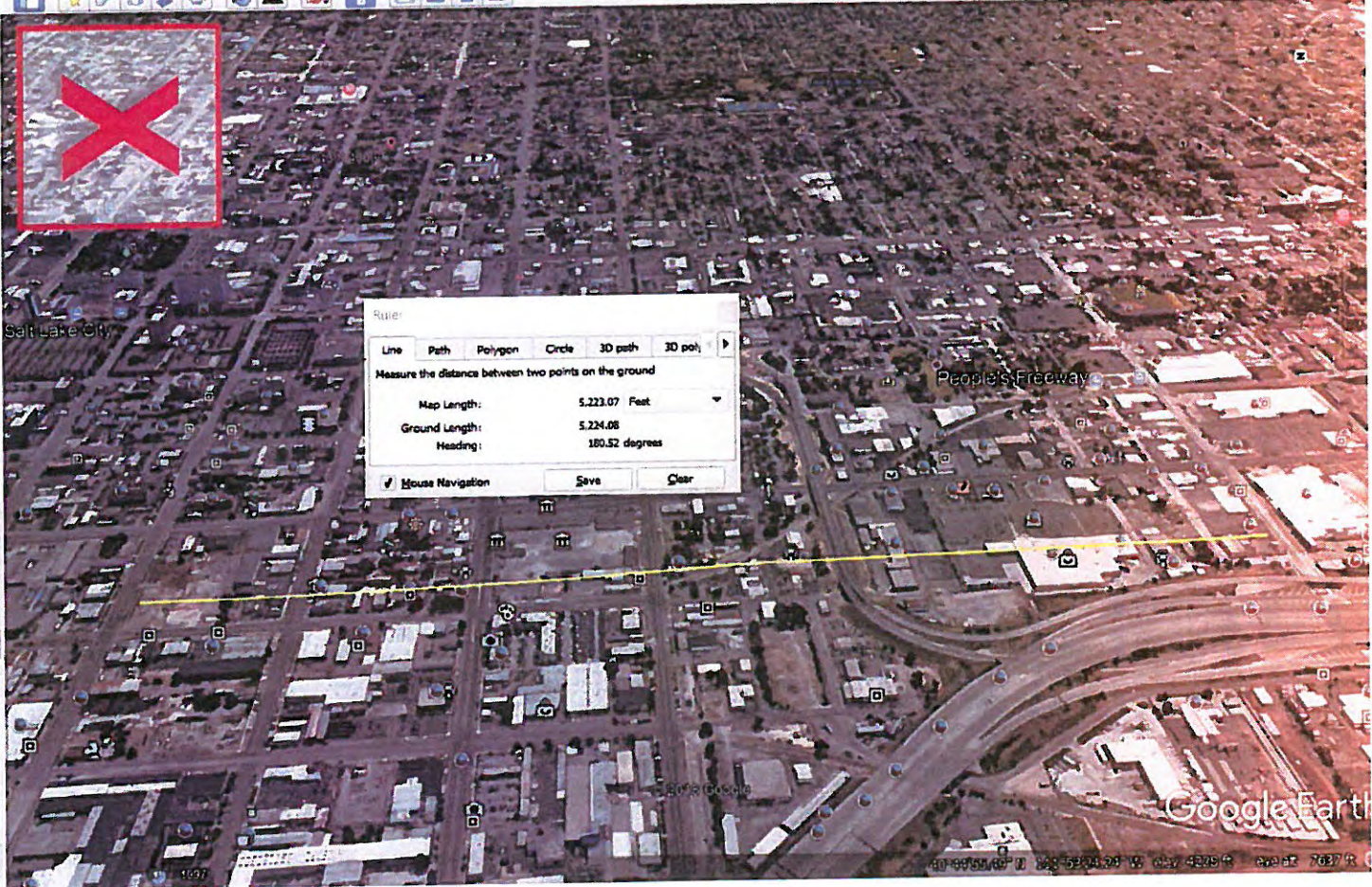
Measure the distance between two points on the ground

Map Length: 5,223.07 Feet

Ground Length: 5,224.08

Heading: 180.52 degrees

Mouse Navigation Save Clear



----- Forwarded message -----

From: **Paterson, Joel** <[joel.paterson@slcgov.com](mailto:joel.paterson@slcgov.com)>

Date: Fri, Jul 26, 2019 at 1:55 PM

Subject: RE: Request to Relocate Billboard, 643 S 400 West - BLD2018-06867

To: Mike Helm <[mhelm@yesco.com](mailto:mhelm@yesco.com)>

Cc: Norris, Nick <[Nick.Norris@slcgov.com](mailto:Nick.Norris@slcgov.com)>, Dansie, Doug <[Doug.Dansie@slcgov.com](mailto:Doug.Dansie@slcgov.com)>, Lewis, Katherine <[Katherine.Lewis@slcgov.com](mailto:Katherine.Lewis@slcgov.com)>, Slark, Samantha <[Samantha.Slark@slcgov.com](mailto:Samantha.Slark@slcgov.com)>, Mcgrath, Jennifer <[Jennifer.Mcgrath@slcgov.com](mailto:Jennifer.Mcgrath@slcgov.com)>, Leary, Patrick <[Patrick.Leary@slcgov.com](mailto:Patrick.Leary@slcgov.com)>

Mr. Helm,

As you state in the e-mail below, the letter sent to you with a postmark date of July 23, 2019, denying YESCO's request to relocate a billboard from its present location at approximately 643 S 400 West to the property at 342 W 1300 South represents a final administrative decision. Under section 21A.16.030 of the Zoning Ordinance, this decision may be appealed within 10 days. The postmark date of the letter will be used to calculate the deadline of the appeal period. The Zoning Ordinance provides the following direction on the computation of time:

**21A.04.020**

F. Computation Of Time: The time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday or legal holiday recognized by the City, that day shall be excluded.

Using this standard, if you choose to file an appeal, the appeal deadline would be at the end of business on August 2, 2019. As noted on the attached document, the appeal application is to be submitted at the Planning Counter in Room 215 of the City & County Building, 451 S State Street. Please note that the Planning Counter closes at 4:30 pm. For your convenience, I have attached an appeal application to this e-mail.

Please contact me if you have any questions.

Thank you,

**YOM 00008**

JOEL PATERSON, AICP

Zoning Administrator

PLANNING DIVISION

DEPARTMENT *of* COMMUNITY *and* NEIGHBORHOODS

SALT LAKE CITY CORPORATION

Email: [Joel.Paterson@slcgov.com](mailto:Joel.Paterson@slcgov.com)

TEL 801-535-6141

FAX 801-535-6174

<https://www.slc.gov/planning/>

**From:** Mike Helm <[mhelm@yesco.com](mailto:mhelm@yesco.com)>

**Sent:** Friday, July 26, 2019 10:29 AM

**To:** Paterson, Joel <[joel.paterson@slcgov.com](mailto:joel.paterson@slcgov.com)>

**Subject:** Re: Request to Relocate Billboard, 643 S 400 West - BLD2018-06867

Joel,

Thank you for taking my phone call this morning. Per our conversation you stated that your response letter was the city's final decision and that as the letter was postmarked July 23, 2019 that you would consider that day to be the beginning of the 10 day window to file an appeal if YESCO decided to do so. Will you please respond to this email to confirm that?

Will you please email me a copy of the city form needed to file an appeal at your earliest convenience?

YOM 00009

Regards,

**Mike Helm**  
VP of Real Estate and Government Affairs  
YESCO Outdoor Media

1605 S. Gramercy Rd.  
Salt Lake City, UT 84104

801.464.6406 **PHONE**  
801.694.3086 **CELL**

801.467.3447 **FAX**



---

**Outdoor Media**

On Fri, Jul 19, 2019 at 5:05 PM Paterson, Joel <[joel.paterson@slcgov.com](mailto:joel.paterson@slcgov.com)> wrote:

Mr. Helm,

Please see the attached letter regarding YESCO's request to relocate the billboard at 643 S 400 West to a location at approximately 342 W 1300 South. The attached letter will also be sent via registered mail, return receipt requested.

Thank you,

**YOM 00010**

JOEL PATERSON, AICP

Zoning Administrator

PLANNING DIVISION

DEPARTMENT *of* COMMUNITY *and* NEIGHBORHOODS

SALT LAKE CITY CORPORATION

Email: [Joel.Paterson@slc.gov](mailto:Joel.Paterson@slc.gov)

TEL 801-535-6141

FAX 801-535-6174

<https://www.slc.gov/planning/>

YOM 00011





SALT LAKE CITY CORPORATION  
 PLANNING DIVISION  
 451 SOUTH STATE STREET, ROOM 406  
 P.O. Box 145480, SALT LAKE CITY, UTAH 84114-5480

**CERTIFIED MAIL**



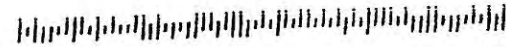
7004 1160 0005 5671 0159

Mike Helm  
 YESCO Outdoor Media  
 1605 S Gramercy Road  
 Salt Lake City, UT 84104



FIRST CLASS

8410434886 0012



YOM 00012

JACQUELINE M. BISKUPSKI  
Mayor



DEPARTMENT of COMMUNITY  
and NEIGHBORHOODS  
PLANNING DIVISION

July 18, 2019

**VIA Email and Registered Mail, Return Receipt Requested**

Mike Helm  
YESCO Outdoor Media  
1605 S. Gramercy Road  
Salt Lake City, Utah 84104

**Re: Response to Letter Dated June 24, 2019, Regarding Amendment and Updated Request to Relocate YESCO 11018 Billboard, Log. No. BLD2018-06867**

Dear Mr. Helm,

Salt Lake City Corporation (the "City") received your letter dated June 24, 2019, in which YESCO Outdoor Media ("YESCO") submitted a new request to relocate a billboard pole ("Existing Billboard") that is currently located at 643 S. 400 W. ("Current Location"). The City previously received, and denied YESCO's request to relocate the Existing Billboard from the Current Location to 643 W. 800 S.

In YESCO's letter dated June 24, 2019, it is now requesting to move the Existing Billboard from the Current Location to 342 W. 1300 S ("1300 S. Location"). As a preliminary matter, it appears that the 1300 S. Location may be more than 5,280 feet away from the Current Location, in which case the new relocation request is denied because it does not meet the requirements of Utah Code § 10-9a-513(2)(b)(iv).

In the event YESCO can show the 1300 S. Location is within 5,280 feet of the Current Location, the City nonetheless denies the relocation request. Under Utah Code § 10-9a-513(2)(b)(i) a billboard owner may "rebuild, maintain, repair, or restore a billboard structure that is damaged by casualty, an act of god, or vandalism." Under Utah Code § 10-9a-513(2)(b)(iv) a billboard owner may "relocate a billboard into any commercial, industrial, or manufacturing zone within the municipality's boundaries, if the relocated billboard is (A) within 5,280 feet of the billboard's previous location; and (B) no closer than 300 feet" to another billboard. These subsections are separated by the word "or," which means they are separate and distinct options and an application like YESCO's that attempts to combine both does not qualify and does not trigger the requirements of Utah Code § 10-9a-513(2)(a) and (d), including compensation for a denial.

Since YESCO claims the billboard was damaged by an act of god and is in need of repair, the City will consider a new application from YESCO that requests rebuilding the billboard at the Current Location, under Utah Code § 10-9a-513(2)(b)(i). But no application to relocate to the 1300 S. Location can be considered at this time because YESCO does not have an existing functioning billboard at the Current Location. If YESCO files a new application and rebuilds the Existing Billboard, the City will consider a new request to relocate under Utah Code § 10-9a-513(2)(b)(iv).

Finally, the City considers the Existing Billboard to have been abandoned for at least 12 months under Utah Code § 10-9a-513(3)(a)(ii)(C), because the structure has only been a pole, with no face or advertising of any kind, for over two years. Thus, this letter also serves as notice to YESCO under Utah Code 10-9a-513(3)(b) that the Existing Billboard is abandoned and YESCO must remedy the abandonment within 180 days after receipt of this letter or the City will require removal of the billboard.

For these reasons, YESCO's request to relocate the Existing Billboard to the 1300 S. Location is denied. Please feel free to contact me with questions.

Sincerely,



Joel Paterson  
Zoning Administrator  
Salt Lake City Corporation

cc: Patrick Leary, Chief of Staff  
Nick Norris, Salt Lake City Planning Director  
Doug Dansie, Senior Planner

YOM 00014

USPS TRACKING #



9590 9402 4214 8121 3246 75



First-Class-Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

United States  
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box®

VESCO Outdoor Media  
Attn: Mike Helms  
1605 S. Gramercy Rd.  
Salt Lake City, UT 84104



SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature <b>Received</b></p> <p><b>X</b> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Print Name) <b>JOEL PATTERSON</b></p> <p>C. Date of Delivery</p>
<p>1. Article Addressed to:</p> <p><b>Joel Patterson</b> <b>Salt Lake City Zoning Administrator</b> <b>451 South State Street, Room 406</b> <b>Salt Lake City, UT 84114-5480</b></p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No State, city, and delivery address below:</p>
<p>2. Article Number (Transfer from carrier label)</p> <p><b>EL534001335US</b></p>	<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Priority Mail Express®  <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail™  <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Registered Mail Restricted Delivery  <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation™  <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery  <input type="checkbox"/> Insured Mail <input type="checkbox"/> Signature Confirmation Restricted Delivery (over \$500)  <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p>

YOM 00015

**CUSTOMER USE ONLY**

**FROM: (PLEASE PRINT)** PHONE ( )

YESCO Outdoor Media  
 Mike Holman  
 105 S. Lawrence Rd  
 Salt Lake City UT 84104

**PAYMENT BY ACCOUNT (if applicable)**  
 USPS® Corporate Acct. No. Federal Agency Acct. No. or Postal Service™ Acct. No.

**DELIVERY OPTIONS (Customer Use Only)**

**SIGNATURE REQUIRED** Note: The mailer must check the "Signature Required" box if the mailer: 1) Purchases the addressee's signature, OR 2) Purchases additional insurance, OR 3) Purchases COD service, OR 4) Purchases Return Receipt service. If the box is not checked, the Postal Service will leave the item in the addressee's mail receptacle or other secure location without attempting to obtain the addressee's signature on delivery.

**Delivery Options**

No Saturday Delivery (delivered next business day)  
 Sunday/Holiday Delivery Required (additional fee, where available)  
 10:30 AM Delivery Required (additional fee, where available)  
 \*Refer to USPS.com® or local Post Office™ for availability.

**TO: (PLEASE PRINT)** PHONE ( )

Juel Patterson  
 Salt Lake City Zoning Administrator  
 451 South State Street, Room 406  
 Salt Lake City, UT  
 ZIP + 4® (U.S. ADDRESSES ONLY)  
 84114-5480

For pickup or USPS Tracking™, visit USPS.com or call 800-222-1811.  
 \$100.00 Insurance Included.



**ORIGIN (POSTAL SERVICE USE ONLY)**

<input checked="" type="checkbox"/> 1-Day	<input type="checkbox"/> 2-Day	<input type="checkbox"/> Military	<input type="checkbox"/> DPO
PO ZIP Code 84199	Scheduled Delivery Date (MM/DD/YY) 6/25/19	Postage \$25.50	
Date Accepted (MM/DD/YY) 6/24/19	Scheduled Delivery Time <input type="checkbox"/> 10:30 AM <input type="checkbox"/> 3:00 PM <input type="checkbox"/> 12 NOON	Insurance Fee \$	COD Fee \$
Time Accepted 4:15 <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM	10:30 AM Delivery Fee \$	Return Receipt Fee \$2.80	Live Animal Transportation Fee \$
Weight lbs. ozs.	Sunday/Holiday Premium Fee \$	Total Postage & Fees \$28.30	
	Acceptance Employee Initials On		

**DELIVERY (POSTAL SERVICE USE ONLY)**

Delivery Attempt (MM/DD/YY) Time	Employee Signature
<input type="checkbox"/> AM <input type="checkbox"/> PM	
Delivery Attempt (MM/DD/YY) Time	Employee Signature
<input type="checkbox"/> AM <input type="checkbox"/> PM	



## Outdoor Media

June 24, 2019

**Via Email and U.S. Mail**

Joel Patterson  
Salt Lake City Zoning Administrator  
451 South State Street, Room 406  
Salt Lake City, Utah 84114-5480

Re: *Amendment and Updated Request to Relocate YESCO 11018 Billboard, Log No: BLD2018-06867*

Dear Mr. Patterson,

As you know, YESCO Outdoor Media ("YESCO") filed an application last year to relocate billboard number 11018 (the "Billboard 11018") from 643 S. 400 W. ("Current Location") to 643 W. 800 S. (the "Fear Factory Property"). On April 10, 2019 you wrote that Billboard 11018 could not be relocated to the Fear Factory Property because the proposed location does not meet the 500 foot spacing requirements between billboards on the Fear Factory Property. YESCO responded to your letter on or about April 22, 2019 and disputed the City's position.

After additional investigation and in order to avoid a dispute with Salt Lake City regarding this issue, YESCO has found a new location whereupon to relocate Billboard 11018. The new property is located at 342 W. 1300 S., Salt Lake City and is owned by Utah Capital Properties, LLC ("UCP Property"). The UCP Property is currently occupied by the Escape on 13<sup>th</sup> Escape Room. Inasmuch as the UCP Property is located in the municipal boundaries of Salt Lake City, within 5,280 of the Current Location, and was significantly damaged in a windstorm (an act of God), YESCO is entitled to rebuild and relocate Billboard 11018 to the UCP Property. *See* Utah Code Ann. §10-9a-513(2)(b). Consequently, YESCO hereby amends its prior application to relocate Billboard 11018 from the Current Location to the UCP Property. Please confirm as soon as possible that Salt Lake City will permit the relocation as requested. Given the significant time this application has been pending, YESCO intends to move quickly to effectuate the relocation as proposed.

If the City takes further action to deny or delay YESCO's unambiguous relocation rights, YESCO will consider any such action as a de facto taking, entitling it to just compensation for the loss of its rights. If you would like to discuss these matters, please contact me at 801-464-6406.

Regards,

A handwritten signature in black ink, appearing to read 'Mike Helm', with a horizontal line extending to the right.

Mike Helm  
YESCO Outdoor Media  
mhelm@yesco.com

866-779-8357

1605 South Gramercy Road  
Salt Lake City, UT 84104

yesco.com

**YOM 00017**

701A 1130 0000 7537 3790

U.S. Postal Service™  
CERTIFIED MAIL® RECEIPT  
Domestic Mail Only

For delivery information, visit our website at [www.usps.com](http://www.usps.com)

SALT LAKE CITY, UT 84141

OFFICIAL USE

Certified Mail Fee	\$3.50
Postage	\$0.55
<b>Total Postage and Fees</b>	<b>\$6.85</b>



Sent To: Bob Patterson, Sec 2 Aging Administrator  
 Street and Apt. No., or PO Box: 1515 State St., Room 406  
 City, State, ZIP+4: Salt Lake City, UT 84114-5480

PS Form 3800, April 2015 PSN 7530-02-000-901 See Reverse for Instructions

USPS TRACKING #



9590 9402 4214 8121 3248 04



First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

United States  
Postal Service

\* Sender: Please print your name, address, and ZIP+4<sup>9</sup> in this box\*

Mike Helan  
42500 Outdoor Media  
1605 S. Gramercy Rd.  
Salt Lake City, UT 84104



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
 Joel Patterson  
 SLC zoning Administrator  
 4515 S. State St. Room 406  
 Salt Lake City, UT 84114-5480



9590 9402 4214 8121 3248 04

2. Article Number (Transfer from previous label)  
7018 1130 0000 7537 3790

COMPLETE THIS SECTION ON DELIVERY

- A. Signature  Agent  
 Addressee
- B. Received by (Printed Name)  Agent  
 Addressee
- C. Date of Delivery  
 APR 25 2015
- D. Is delivery address different from item 1?  Yes  
 No  
 If YES, enter delivery address below:

3. Service Type
- Adult Signature Restricted Delivery
  - Adult Signature Restricted Delivery
  - Certified Mail Restricted Delivery
  - Collect on Delivery
  - Collect on Delivery Restricted Delivery
  - Insured Mail
  - Insured Mail Restricted Delivery (over \$500)
  - Priority Mail Express®
  - Registered Mail™
  - Registered Mail Restricted Delivery
  - Return Receipt for Merchandise
  - Signature Confirmation™
  - Signature Confirmation Restricted Delivery

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

YOM 00019





## Outdoor Media

April 22, 2019

Joel Patterson  
Salt Lake City Zoning Administrator  
451 South State Street, Room 406  
Salt Lake City, Utah 84114-5480

Re: YESCO 11018 Billboard Relocation, Log No: BLD2018-06867

Dear Mr. Patterson,

I am in receipt of your letter dated April 10, 2019 addressing YESCO Outdoor Media's ("YESCO") application to relocate the billboard number 11018 (the "Billboard 11018") from 643 S. 400 W., Salt Lake City to 643 W. 800 S., Salt Lake City. Your letter indicates YESCO does not have the right to relocated Billboard 11018 because it does not meet the 500 foot spacing requirements between billboards on the Fear Factory Property.

As you may know, YESCO submitted an application to Salt Lake City on October 11, 2018 pursuant to Utah Code Ann. Sections 72-7-510.5 and 10-9a-513 (2)(b) to relocate Billboard 11003, Log No: BLD2018-10067, currently located on the Fear Factory Property. That relocation is permitted because a UDOT highway project impaired the clear visibility of the north face of Billboard 11003 by installing a high center median on I-15. "Clearly visible" is defined as meaning "capable to being read without obstruction by an occupant of a vehicle traveling on a street or highway within the visibility area." See Utah Code Ann. § 10-9a-513(1)(a). Because the Billboard is not clearly visible from "all lanes of traffic of the street or highway", YESCO is entitled to relocate it. See Utah Code Ann. § 10-9a-513(1)(f) (defining "visibility area").

By letter dated March 20, 2019, YESCO also addressed Salt Lake City's "Initial Zoning Plan Review" dated December 3, 2018 wherein Salt Lake City raised objections to YESCO's application to relocated Billboard 11003. Salt Lake City has failed to act on that permit application within the 180 days permitted by Utah law. See Utah Code Ann. §10-9a-513(2)(a) (providing that "may take the requested action, . . . 180 days after the day on which the billboard owner makes the written request . . ." unless municipality initiated eminent domain proceedings). Therefore, YESCO is entitled to proceed with the relocation of Billboard 11003 without further land use approval. Once Billboard 11003 is relocated, Billboard 11018 will meet all spacing requirements, Salt Lake City will have no further basis upon which to object to its relocation, and YESCO will be entitled to relocate Billboard 11018 without further approval.

866-779-8357

1605 South Gramercy Road  
Salt Lake City, UT 84104

yesco.com

YOM 00020



## Outdoor Media

---

If the City takes further action to deny YESCO's unambiguous relocation rights provided by the Municipal Land Use, Development, and Management Act, YESCO will consider any such action as a defacto taking, entitling it to just compensation for the loss of its rights. If you would like to discuss these matters, please contact me at 801-464-6406.

Regards,

A handwritten signature in black ink, appearing to read 'Mike Helm'.

Mike Helm  
YESCO Outdoor Media  
mhelm@yesco.com

cc: Michael Wardle, Esq.

866-779-8357

1605 South Gramercy Road  
Salt Lake City, UT 84104

yesco.com

YOM 00021

JACQUELINE M. BISKUPSKI  
Mayor



DEPARTMENT of COMMUNITY  
and NEIGHBORHOODS  
PLANNING DIVISION

April 10, 2019

*Via E-mail*

Mike Helm  
YESCO Outdoor Media  
1605 South Gramercy Road  
Salt Lake City, UT 84104  
[mhelm@yesco.com](mailto:mhelm@yesco.com)

**Re: Request to Relocate Billboard, 643 South 400 West, BLD2018-06867**

Dear Mike:

We are in receipt of your letter dated March 20, 2019. The City acknowledges it received a request from YESCO in July 2018 to relocate a billboard pole that is currently located at 643 South 400 West (the "600 South Billboard") to approximately 643 West 800 South (the "Fear Factor Property"). However, this relocation application did not establish that YESCO has the right under Utah law to relocate the 600 South Billboard to the Fear Factor Property. The City notes that YESCO also owns a billboard located at the southern end of the Fear Factor Property. See Map attached hereto. If the 600 South Billboard is relocated to the Fear Factor Property it will result in two interstate facing billboards being within 500 feet of each other, which is not permitted by Utah Code. See Utah Code § 72-7-505(3)(a). As such, you do not have the right under state law to relocate the 600 South Billboard to the Fear Factor Property, unless the other billboard is removed.

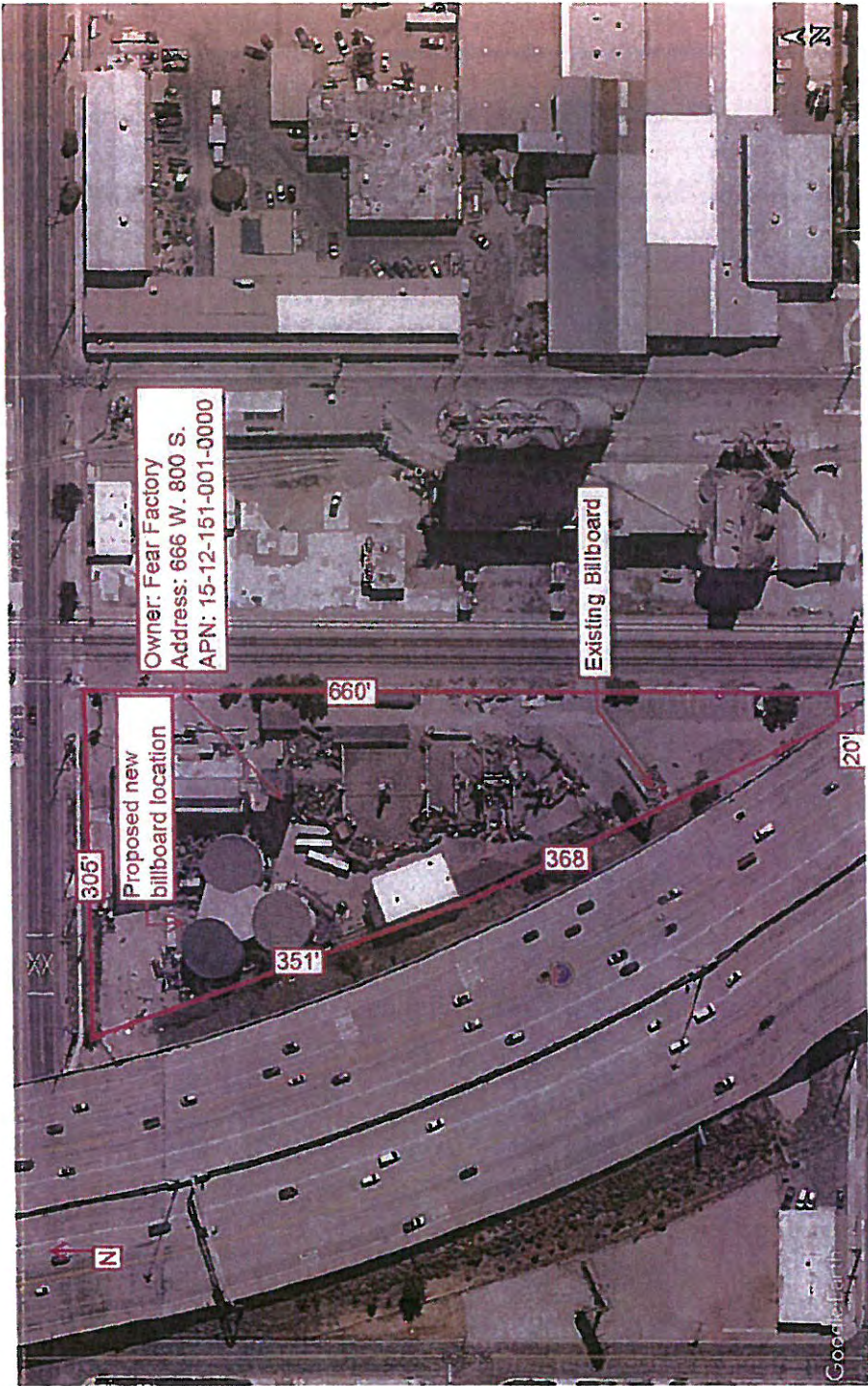
Sincerely,

A handwritten signature in black ink, appearing to read "Joel Paterson".

Joel Paterson  
Zoning Administrator  
Salt Lake City Corporation

Attachment

cc: Greg Mikolash, Salt Lake City Building Services  
Nick Norris, Salt Lake City Planning  
Doug Dansie, Salt Lake City Planning



**U.S. Postal Service**  
**CERTIFIED MAIL® RECEIPT**  
*Domestic Mail Only*

7016 1130 0000 7537 3752

For delivery information, visit our website at [www.usps.com](http://www.usps.com)

**OFFICIAL USE**

Certified Mail Fee	
\$	
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$ _____
<input type="checkbox"/> Return Receipt (electronic)	\$ _____
<input type="checkbox"/> Certified Mail Restricted Delivery	\$ _____
<input type="checkbox"/> Adult Signature Required	\$ _____
<input type="checkbox"/> Adult Signature Restricted Delivery	\$ _____
Postage	
\$	
Total Postage and Fees	
\$	

Postmark  
 5/02 02:00 PM  
 2019

Sent To <u>Salt Lake City Building Services</u>	
Street and Apt. No., or PO Box No. <u>PO Box 145471</u>	
City, State, ZIP+4® <u>Salt Lake City UT 84114-5471</u>	

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

USPS TRACKING #



9590 9402 4214 8121 3246 82

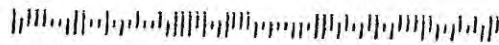


First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

United States  
Postal Service

\* Sender: Please print your name, address, and ZIP+4® in this box\*

*YESCO outdoor Media  
Mike Helton  
1605 S. Gramercy Rd.  
Salt Lake City, UT 84104*



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

*Salt Lake City Building Services  
PO Box 165471  
Salt Lake City, UT 84114-5471*



9590 9402 4214 8121 3246 82

7018 1130 0000 7537 3752

COMPLETE THIS SECTION ON DELIVERY

A. Signature <b>Received</b> <b>X</b>		<input type="checkbox"/> Agent <input type="checkbox"/> Addressee
B. Received by (Printed Name) <i>MAR 27 2015</i>	C. Date of Delivery	

D. Is delivery address different from item 1?  Yes  
 No

3. Service Type

<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®
<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™
<input type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery
<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Signature Confirmation™
<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery
<input type="checkbox"/> Insured Mail	
<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	

PS Form 3811, July 2015 PSN 7530-02-000-8053

Domestic Return Receipt

YOM 00025



## Outdoor Media

March 20, 2019

Salt Lake City Building Services  
P.O. Box 145471  
Salt Lake City, Utah 84114-5471

Re: YESCO 11018 Billboard Relocation, Log No: BLD2018-06867

Dear Building Services,

On July 11, 2018 YESCO Outdoor Media submitted an application to relocate billboard number 11018 (the "Billboard") from 643 S. 400 W., Salt Lake City to 643 W. 800 S., Salt Lake City. The Billboard was damaged in a windstorm on or about June of 2016 and YESCO sought to rebuild the Billboard in a new location as permitted by statute. As of March 18, 2019, there has been no action taken by the City to process YESCO's application.

In 2018, the Utah legislature created enhanced statutory protections for billboard owners and limited a municipality's ability to use its' ordinances to either deny or delay a billboard owner's ability to relocate a sign. Section 10-9a-513 (2)(b) states in relevant part that a billboard owner may:

- (i) *rebuild, maintain, repair, or restore a billboard structure that is damaged by casualty, an act of God, or vandalism; . . .*
- (iv) *relocate a billboard into any commercial, industrial, or manufacturing zone within the municipality's boundaries, if the relocated billboard is:*
  - (A) *within 5,280 feet of the billboard's previous location; and*
  - (B) *no closer than 300 feet from an off-premise sign existing on the same side of the street or highway, or if the street or highway is an interstate or limited access highway that is subject to Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the distances allowed under that act between the relocated billboard and an off-premises sign existing on the same side of the interstate or limited access highway; or*
  - (v) *make one or more of the following modifications, as the billboard owners determines, to a billboard that is structurally altered by modification or upgrade under Subjection 2(b)(iii), be relocation under Subjection (2)(b)(iv), or by any combination of these alterations:*
    - (A) *erect the billboard;*
      - (I) *to the highest allowable height; and*
      - (II) *as the owner determines, to an angle that makes the entire advertising content of the billboard clearly visible. . . .*

866-779-8357

1605 South Gramercy Road  
Salt Lake City, UT 84104

yesco.com

YOM 00026



## Outdoor Media

Section 10-9a-513(2)(a) provides that if a Billboard owner makes a written request to relocate a billboard and the municipality fails to take action or commence an eminent domain proceeding to condemn the billboard within 180 days, the Billboard owner may "take the requested action, without further municipal land use approval."

More than 180 days have passed without approval or commencement of eminent domain proceedings by the City. Therefore, YESCO intends to proceed to relocate the Billboard without further land use approval, as it is entitled by Utah Code Ann. §10-9a-513(2)(a). If the City takes further action to deny YESCO's unambiguous relocation rights provided by the Municipal Land Use, Development, and Management Act, YESCO will consider any such action as a defacto taking, entitling it to just compensation for the loss of its rights. If you would like to discuss these matters, please contact me at 801-464-6406.

Regards,

A handwritten signature in black ink, appearing to read "Mike Helm".

Mike Helm  
YESCO Outdoor Media  
mhelm@yesco.com

866-779-8357

1605 South Gramercy Road  
Salt Lake City, UT 84104

yesco.com

YOM 00027



11003-BLD2018-10067  
11008-BLD2018-06867



JACKIE BISKUPSKI  
MAYOR

DEPARTMENT of COMMUNITY and NEIGHBORHOODS

ORION GOFF  
DIRECTOR

**Initial ZONING PLAN REVIEW**

(Based on the Salt Lake City ordinance Title 21A)

<b>Date:</b> 12-03-18	<b>Log No:</b> BLD2018-10067
<b>Zoning District/Overlay:</b> CG	<b>Project Name:</b> Yesco 11003 Billboard Rebuild
<b>Address(es):</b> 643 W. 800 S.	

**APPLICANT CONTACT INFORMATION:**

**Name(s):** Mike Helm  
**Email:** mhelm@yesco.com

**Phone:** 801-464-6400 - 801-694-3086

**Reviewed by:** Greg Mikolash  
**Email:** [Gregory.mikolash@slcgov.com](mailto:Gregory.mikolash@slcgov.com)

**Phone:** 801-535-6181

If you have any questions or comments, email is the preferred method of contact.

To discuss this review in person, please call or email a request for an appointment with your reviewer.

Permit and zoning information is available by visiting the Building Services and Civil Enforcement website at: <http://www.slcgov.com/building>

This building permit application at the above located address has been reviewed for compliance with the Salt Lake City zoning code. The comments below indicate that corrections, clarification or additional details are required.

**Zoning Review Comments:**

- 1) Since this billboard is not a simple rebuild/remodel and is a proposed *new* billboard located along the corridor of I-15, it is not allowed; therefore, if the existing billboard is taken down it shall not be replaced according to local law. The existing billboard would be able to be rebuilt at its current location but not moved/relocated on the same parcel.

This concludes our initial Zoning Review.

Please reply to this review by downloading a response letter into the [Review Comment Responses](#) folder and revised or added drawings to the [Drawings](#) folder. All drawing revisions are to be uploaded into the Drawings folder, using the exact same naming of each sheet to maintain order and version sequence.

Thank you.



DEPARTMENT of COMMUNITY and NEIGHBORHOODS

JACKIE BISKUPSKI  
MAYOR

ORION GOFF  
DIRECTOR

**INITIAL BUILDING CODES PLAN REVIEW**

Based on the Building (2015 IBC), Mechanical (2015 IMC), Plumbing (2015 IPC), Electrical (2017 NEC), Energy (2015 IECC), Existing Building (2015 IEBC) and Accessibility (ICC/ANSI A117.1-2009) Codes and their Utah State Amendments. For link to codes, see <http://www.slcgov.com/building/building-code>

Log No.: **BLD2018-10067** Project: **YESCO 11003 rebuild** Project Dox Yes  
Date: **November 26, 2018** Address: **643 W 800 S, SLC**

**APPLICANT CONTACT INFORMATION:** Mike Helm  
Email: [mhelm@yesco.com](mailto:mhelm@yesco.com) Phone: (801)464-6400

REVIEWED BY: KELLY JANIS PHONE: (801) 535-6605

If you have any questions or comments email is the preferred method of contact.

To discuss this review in person, please email a request for an appointment to: [kelly.janis@slcgov.com](mailto:kelly.janis@slcgov.com)

The design package submitted for the proposed building permit at the above location has been reviewed for compliance with the state adopted codes and amendments. These comments require corrections, clarification or additional details. Please provide revised plans and supporting documents along with a written response to each comment.

**CODE ANALYSIS:**

Occupancy Classification: \_\_\_\_\_ Construction Type: \_\_\_\_\_ Valuation: \$120,000

Are fire sprinklers existing? \_\_\_\_\_ or proposed? \_\_\_\_\_ or not required? \_\_\_\_\_

Brief description of the proposed scope work: Rebuild existing sign, each side 672 sq ft.

---

**Review Comments:**

**General:**

1. Provide a note on the cover sheet stating that the contractor is to abide by the Utah Division of Air Quality requirements and to contact the Utah Division of Air Quality at (801) 536-4400.
2. Add a note to notify Blue Stakes at (800) 662-4111 or <http://www.bluestakes.org> before construction begins.
3. Construction drawings need to (architectural, structural, and electrical) bear the original seal, signed and dated across the seal, of the design professional for that discipline.

BUILDING CODE REVIEW COMMENTS CONTINUED:

4. List all required special inspections and submit a *Special Inspection & Testing Agreement*. This form has been uploaded to the City Review Comments & Instructions folder. Please upload a copy of the completed form to the City Required Forms folder. Note that this form must be completed in full, signed by all three parties and stamped by the architect. Ensure that copies of current certificates for each inspector listed are included with this form.

**Site / Exterior:**

5. Provide a site plan showing the entire property with all buildings, showing the distances and setbacks (in feet) to the property line on all sides of the new proposed billboard.



**Electrical:**

6. Will this be a digital / electric billboard?

**Structural:**

7. Provide structural engineering and details for the new sign.
8. Provide structural calculations.

This concludes our *Initial Code Review*.

Please reply to this review by providing a response letter to the  [Review Comment Responses](#) folder and revised or added drawings to the  [Drawings](#) folder.

Thank you.

1/29/2019

Mail - Permit 2-0259



Mike Helm <mhelm@yesco.com>

---

## Permit 2-0259

---

Zachary Derr <zderr@utah.gov>

Wed, Jul 18, 2018 at 7:58 AM

To: Mike Helm <mhelm@yesco.com>, Krissy Plett <kplett@utah.gov>

Mike,

We need your help with some information about a sign. It appears that YESCO permit (2-0259) has no sign head. We have not seen any active permit application for alteration. The attached image from Road View Explorer shows the sign head missing since 9/8/2017.

Could you let us know your plans with this sign? We want to work with you on a solution to this. As you know, per the statute, you may completely remodel the sign structure as long as you do not make alterations to it. You also have 365 days until we consider the sign abandoned.

Please let us know your plans and hopefully we can work together on a solution for this.

Thanks,

Zach Derr



**Zach Derr**  
Statewide Permit Officer  
-Outdoor Advertising Control  
4501 South 2700 West, Box 148420  
Salt Lake City, Utah 84114-8420  
Ph: 801-448-1713  
Email: zderr@utah.gov  
Website: [www.udot.utah.gov/go/outdooradvertising](http://www.udot.utah.gov/go/outdooradvertising)

1/29/2019

Mail - Permit 2-0259

The information contained in this electronic mail message is confidential information intended only for the use of the individual or entity named above and may be privileged. If the reader of this message is not the intended recipient or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify me by reply to this message. Also, please delete the original message. Thank you.

# Citizen Access Portal

Announcements Logged in as Neil Johnson Collections (0) Cart (0) Receipts/Reports (4) Account Management Logout

Search...

Home Building Bus Lic Civil Enforcement Engineering Events Fire Fix the Bricks Planning Property Management more

Check/Research Permits Apply for a Permit Schedule an Inspection

Record BLD2017-11022:  
Sign

Add to cart  
Add to collection

Record Info Payments Custom Component

### Work Location

613 S 400 W  
Salt Lake City

### Record Details

#### Applicant:

Neil Steven Johnson  
YESCO Outdoor Media, LLC  
1605 S Gramercy Rd  
Salt Lake City, UT, 84104  
Phone 2: (Mobile) 801-464-6428  
Fax: 801-467-3447  
njohnson@yesco.com

#### Licensed Professional:

Neil Johnson  
Yesco LLC  
1605 S Gramercy Road  
Salt Lake City, UT, 84104  
Phone 1: (Work) 801-464-6428  
PROFESSIONAL 7232280-5501

#### Owner:

AMERITEL INN, ELKO, LLC; ET AL  
10200 W EMERALD ST  
BOISE ID 83704

#### More Details

##### Application Information

###### SIGN PERMIT

Proposed Square Footage of each sign: 560  
Height of proposed sign: 40'-6"  
Projection over city property?: No  
Is sign to be illuminated?: Yes  
Use Type (Sign): Remodel  
Permit Details/Comments: Maintenance-act of God (wind damage)/ Utah Code section: 72 7509 (2) allows for remodel  
Proposed Square Footage - Sign Type: 560 square feet total - Billboard  
Project Dox: Yes

##### Parcel Information

Parcel Number: 15-01-380-001-0000  
Legal Description: 0608, BEG AT NW COR LOT 5, BLK 25, PLAT A, SLC SUR; E 10 RDS, S 90-3/4 FT; W 10 RDS, N 90-3/4 FT TO BEG 4505-0064 6092-2501, 6092-2500 9099-2759,2774 9101-0116 9104-8644 9304-6937 \*\*\* AMERITEL INN ELKO, LLC; 30% INT. \*\*\* AMERITEL INN TWIN FALLS, LLC; 70% INT

Land Use: VACANT LAND (INDUSTRIAL)

Waiting to hear from:  
Steve Collet  
Plans Examiner  
801-535-7289



Building Services & Civil Enforcement  
slcpermits.com  
801-535-6000, fax 801-535-7750

451 South State Street, Room 215  
Salt Lake City, Utah 84111

PO Box 145490  
Salt Lake City, Utah 84114-5490

Office only

Updated 5/2014

BLD #

Received by

Date

Valuation

## Special Inspection & Testing Agreement

To permit applicants or projects requiring special inspection and / or testing as per Chapter 17 of the 2012 International Building Code (IBC).

Project name YESCO Billboard Remodel

Building permit # BLD2017-11022

Address 613 S 400 W

Date 1/4/2018

Before A Building Permit Can Be Issued: The registered design professional in responsible charge shall fill out this agreement in full. This is to include the name of the inspection agency, the full name of the applicable inspector for each category as well as their appropriate certification number (see the boxes on pages 3, 4 and 5).

Also attach to this form, as an added page, a copy of each listed inspector's current certificate.

Two copies of this form and the certificate copies are to be submitted to the City during the plan review (prior to the issuance of a building permit). If changes are made as to who will perform the special inspections, a new form shall be submitted to the Building Department for approval.

A pre-construction conference with the parties involved may be required to review the special inspection requirements and procedures. Please confirm this with your assigned Building Inspector.

Please Note: this special inspection is in addition to the regular inspections normally required for this project. In no way is a special inspection to be used as a substitute for any regular inspection.

Statement Of Special Inspections: In addition to this Agreement, a "Statement of Special Inspections" shall be provided per the currently adopted Building Code. This Statement shall be made a part of the approved permit plans, and be placed in a conspicuous location, such as the first page of the plans or the first page of the structural plans.

Special Inspectors: All special inspectors shall be approved by the Building Department prior to performing any duties. The special inspector shall provide proof of certification as a special inspector by the State of Utah for each inspection item. For specialty items, certifications provided by organizations other than the State may be accepted with approval from the Building Department. Special inspection and testing shall meet the minimum requirements of the currently adopted Building Code. The following conditions are also applicable:

### A DUTIES & RESPONSIBILITIES OF THE SPECIAL INSPECTOR:

#### 1 Observe work

The Special Inspector shall observe the work for conformance with the building department approved (stamped) design drawings and specifications and applicable workmanship provisions of the IBC. Architect/Engineer reviewed shop drawings and/or placing drawings may be used as an aid to the inspection. Special inspections are to be performed on a continuous basis. This means that the Special Inspector is on the site in the general area at all times observing the work requiring special inspection. Periodic inspections, if any, must have prior approval by the Building Department and shall be based on a separate written plan that has been reviewed and approved by the Building Department and the Project Engineer or Architect.

#### 2 Report non-conforming items

The Special Inspector shall bring non-conforming items to the immediate attention of the General Contractor and note all such items in the Daily Report. If any item is not

resolved in a timely manner, or is about to be incorporated in the work, the special inspector shall immediately notify, by telephone or in person, the Building Department, the Project Engineer or Architect, and post a discrepancy notice.

#### 3 Furnish daily reports

Special inspection reports are to meet the requirements of the currently adopted Building Code. Copies of each report are to be sent to the appropriate building inspector, noting the project address and permit number. Upon request, each special inspector shall complete and sign both the special inspector record and the daily report form for each day's inspections. Both are to remain on the job site with the General Contractor for review by the Building Department's inspector.

#### 4 Furnish weekly reports

The Special Inspector or inspection agency shall furnish weekly reports of tests and inspections directly to the Building Department, Project Engineer or Architect, and others as designated. These reports must include the following:

- a Description of daily inspection and tests made with applicable locations
- b Listing of all non-conforming items
- c Report how non-conforming items were resolved or unresolved as applicable
- d Itemized changes authorized by the Project Architect, Engineer & Building Department, if not included in non-conformance items.

#### 5 Furnish a final report

The Special Inspector or inspection agency shall submit a final signed report to the building department stating that all items requiring special inspection and/or testing were fulfilled and reported and, to the best of his/her knowledge, in conformance with the approved design drawings, specifications, approved change orders and the applicable workmanship provisions or the IBC. Items not in conformance, unresolved items or any discrepancies in inspection coverage (i.e., missed inspections, periodic inspections when continuous inspections were required, etc.) shall be specifically itemized in this final report.

### B CONTRACTOR RESPONSIBILITIES

#### 1 Notify the special inspector

The contractor is responsible for notifying the special inspector or agency regarding individual inspections for items listed in Section D of this agreement AND as noted on the building department approved plan. Adequate notice shall be provided so the special inspector has time to become familiar with the project.

#### 2 Provide access to the approved plans

The contractor is responsible for providing the Special Inspector access to approved plans at the job site.



3 Retain special inspection records

The General Contractor is also responsible for retaining at the job site, all special inspection records submitted by the Special Inspector, and providing these records for review by the Building Department's inspector upon request.

**C OWNER'S RESPONSIBILITIES**

- 1 The owner shall employ the engineer or architect responsible for the structural design or his designated engineer or architect to make visits to the job site to observe general compliance with the approved structural plans, specifications and change orders. The engineer or architect shall submit a statement, in writing, to the building official stating the job site visits have been made and that any deficiencies noted have been corrected. This shall not be construed to be a special inspection.

**D BUILDING DEPARTMENT RESPONSIBILITIES**

- 1 Approve special inspection  
The building department shall approve all special inspectors and special inspection requests.
- 2 Monitor special inspection  
Work requiring special inspection and the performance of special inspectors shall be monitored by the building department's inspector. His/her approval must be obtained prior to placement of concrete or other similar activities in addition to those of the special inspector.
- 3 Issue Certificate of Occupancy  
The building department may issue a Certificate of Occupancy after all special inspection reports and the final report has been submitted and accepted.

Approved Fabricators: Salt Lake City is using the qualifications set forth by the State of Utah Department of Facilities Construction and Management as criteria to qualify as an Approved Fabricator to perform work on projects permitted in Salt Lake City. The link to the DFCM website is: [dfcm.utah.gov/downloads/bldg\\_official/approved\\_fabricator\\_requirements.pdf](http://dfcm.utah.gov/downloads/bldg_official/approved_fabricator_requirements.pdf)

Upon being listed on the State's Approved Fabricator Roster: [dfcm.utah.gov/downloads/bldg\\_official/approved\\_fabricator\\_list\\_11.pdf](http://dfcm.utah.gov/downloads/bldg_official/approved_fabricator_list_11.pdf), fabricators will likewise be considered certified for Salt Lake City.

Only checked items are required

General Special Inspection Items

Areas requiring special inspection	Name of Agency	Name of Inspector	License / Certificate #
Fabricators			
Steel construction			
Welding	American Testing Services	James L Barton	00100461
Details			
High-strength bolts			
Concrete / shotcrete			
Materials			
Empirical masonry – Cat. IV			
Engineered masonry – Cat. III			
Engineered masonry – Cat. IV			
High-load diaphragms			
Soils			
Pile foundations			
Pier foundations			
Sprayed fire-resistant materials			
Fire-resistant coatings			
EIFS			
Smoke control			
Other			
Other			

Special Inspections For Seismic Resistance

Areas requiring special inspection	Name of Agency	Name of Inspector	License / Certificate #
Structural steel			
Structural wood			
Cold-formed steel framing			
Pier foundations			
Storage racks & access floors			
Architectural components			
Mechanical & electrical items			
Designated system verification			
Seismic isolation systems			
Inspections for seismic resistance are not required			

Testing For Seismic Resistance

	Name of Agency	Name of Inspector	License / Certificate #
Empirical masonry – Cat. I-III			
Empirical masonry – Cat. IV			
Engineered masonry – Cat. I-III			
Engineered masonry – Cat. IV			
Reinforcing & prestressing steel			
Structural steel			
Qualification of mechanical & electrical equipment			
Seismically isolated structures			
Testing for seismic resistance is not required			

Seal

Declaration by Architect / Engineer

I, the design professional in responsible charge for this project, declare that the above checked items are the limit to which special inspections are to be performed.

Signature

Date

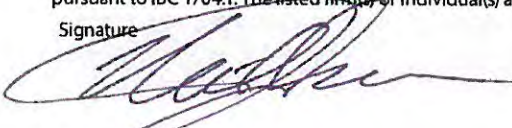
Declaration by Owner

I, the Owner of the project, declare that the above listed firm(s) or individual(s) are hired by me to perform special inspections and testing for the project pursuant to IBC 1704.1. The listed firm(s) or individual(s) are designated by me to be responsible for the special inspection and testing of this project.

Signature

Date

1/4/2018



Declaration by General Contractor

I, the General Contractor of the project, agree to comply with the "Contractor Responsibility" items noted above.

Signature

Date



Building Services & Code Enforcement  
 www.slcpermits.com  
 801-535-6000, fax 801-535-7750

451 South State Street, Room 215 Salt Lake City, Utah 84111  
 PO Box 145490  
 Salt Lake City, Utah 84114-5490

Office only

Updated 01/2017

BLD #

Received by

Date

Valuation

### Structural Observation Program Application

Project name YESCO Billboard Remodel

Building permit # BLD2017-11022

Project address 613 S 400 W

Date issued 12/19/2017

Description of work Billboard Remodel

Owner YESCO Outdoor Media, LLC

Engineer of Record Ben Jones

#### Structural Observations

Only checked items are required. Firm or individual to be responsible for the structural observation:

Name	Phone		Professional license	
	Foundation	Wall	Frame	Diaphragm
Footing & piers Mat	Concrete	Steel moment frame Steel ✓	Concrete	
foundation Deep	Masonry	braced frame Concrete	Steel deck Wood	
foundations Stepped	Wood	moment frame Masonry	Post-tension deck	
foundation Grade	Others	wall frame		
beams		Others	Others	
Others				

I, the Owner of the project, declare that the above listed firm or individual is hired by me to be the Structural Observer.

Signature

Neil Johnson; YESCO Outdoor Media

Date 1/4/2018

Declaration by Engineer of Record required if different from the Listed Structural Engineer

I, the Engineer of Record for this project, declare that the above listed firm or individual is designated by me to be responsible for the Structural Observation.

Signature

Date

Seal

## Submission of the Structural Observation Program

Structural Observations are required for the projects within Salt Lake City limits, per Section 1709 or the 2015 IBC, where one or more of the following conditions exist:

- 1 The structure is included in Seismic Use Group III or IV;
- 2 The height of the structure is greater than 75 feet above the base;
- 3 The structure in Seismic Design Category "E", included in Seismic Use Group I, and is greater than two stories in height;
- 4 When so designated by the registered design professional in responsible charge of the design;
- 5 When such observation is specifically required by the Building Official.

For all projects meeting this requirement, Salt Lake City's "Structural Observation Program" form must be submitted by the Engineer of Record (EOR) prior to issuance of the building permit. The observation program should state what observations are required for the project. All seismic resisting elements of a structural system shall be included in the scope of the project. All seismic resisting elements of a structural system shall be included in the scope of the observations. The Structural Observation Program shall be made part of the approved plans, and be placed in a conspicuous location, such as the first page of the plans or the first page of the structural plans.

The "Structural Observer of Record" and persons who perform the structural observation

The Structural Observer of Record (SOR) is the individual or firm responsible for the structural observation. The SOR must meet all of the following conditions:

- 1 It must be a person or firm licensed in Utah to practice engineering.

It must have a direct contractual relationship with the owner to provide the structural observation. The SOR must meet all of the following conditions:

- 1 It must be a person or firm licensed in Utah to practice engineering.
- 2 It must have a direct contractual relationship with the owner to provide the structural observation service.
- 3 It must be either the EOR for the structural design, or another engineer designated by the EOR.

The person who actually performs the structural observation in the field may be either the SOR, or an engineer under the responsible control of the SOR.

## Submission of Structural Observation Reports

The SOR is responsible for submitting "Structural Observation Reports" to the City at each significant construction stage and at the completion of the structural system, whether or not any deficiency is observed. The person who actually performs the observation may fill out a draft report, noting any observed deficiencies. The draft report shall be reviewed, completed, and stamped by the SOR, who takes responsibility for the report. Whenever a structural observation is performed by someone other than the SOR, that person's name and professional licence number shall be identified in the report. Deficiencies observed must be reported in writing to the owner's representative, relevant special inspectors, the contractor, and the City. All reports submitted to the City shall be sent to the address provided in the letterhead and the envelope should explicitly state the Project Address, Permit Number, and the Structural Plans Examiner associated with the project.



Building Services & Code Enforcement  
 www.slcpemits.com  
 801-535-6000, fax 801-535-7750

451 South State Street, Room 215 Salt Lake City, Utah 84111  
 PO Box 145490 Salt Lake City, Utah 84114-5490

Office only

Updated 01/2017

BLD #

Received by

Date

Valuation

## Structural Observation Program Application

Project name YESCO Billboard Remodel

Building permit # BLD2017-11022

Project address 613 S 400 W

Date issued 12/19/2017

Description of work Billboard Remodel

Owner YESCO Outdoor Media, LLC

Engineer of Record Ben Jones

### Structural Observations

Only checked items are required. Firm or individual to be responsible for the structural observation:

Name	Phone	Professional license
Foundation	Frame	Diaphragm
Footing & piers Mat	Steel moment frame	Steel Concrete
foundation Deep	braced frame	Concrete Steel deck
foundations Stepped	moment frame	Masonry Post-tension deck
foundation Grade	wall frame	
beams	Others	Others
Others		

I, the Owner of the project, declare that the above listed firm or individual is hired by me to be the Structural Observer.

Signature

Date

Declaration by Engineer of Record required if different from the Listed Structural Engineer

I, the Engineer of Record for this project, declare that the above listed firm or individual is designated by me to be responsible for the Structural Observation.

Signature

Date

Seal

## Submission of the Structural Observation Program

Structural Observations are required for the projects within Salt Lake City limits, per Section 1709 or the 2015 IBC, where one or more of the following conditions exist:

- 1 The structure is included in Seismic Use Group III or IV;
- 2 The height of the structure is greater than 75 feet above the base;
- 3 The structure in Seismic Design Category "E", included in Seismic Use Group I, and is greater than two stories in height;
- 4 When so designated by the registered design professional in responsible charge of the design;
- 5 When such observation is specifically required by the Building Official.

For all projects meeting this requirement, Salt Lake City's "Structural Observation Program" form must be submitted by the Engineer of Record (EOR) prior to issuance of the building permit. The observation program should state what observations are required for the project. All seismic resisting elements of a structural system shall be included in the scope of the project. All seismic resisting elements of a structural system shall be included in the scope of the observations. The Structural Observation Program shall be made part of the approved plans, and be placed in a conspicuous location, such as the first page of the plans or the first page of the structural plans.

The "Structural Observer of Record" and persons who perform the structural observation

The Structural Observer of Record (SOR) is the individual or firm responsible for the structural observation. The SOR must meet all of the following conditions:

- 1 It must be a person or firm licensed in Utah to practice engineering.

It must have a direct contractual relationship with the owner to provide the structural observation. The SOR must meet all of the following conditions:

- 1 It must be a person or firm licensed in Utah to practice engineering.
- 2 It must have a direct contractual relationship with the owner to provide the structural observation service.
- 3 It must be either the EOR for the structural design, or another engineer designated by the EOR.

The person who actually performs the structural observation in the field may be either the SOR, or an engineer under the responsible control of the SOR.

## Submission of Structural Observation Reports

The SOR is responsible for submitting "Structural Observation Reports" to the City at each significant construction stage and at the completion of the structural system, whether or not any deficiency is observed. The person who actually performs the observation may fill out a draft report, noting any observed deficiencies. The draft report shall be reviewed, completed, and stamped by the SOR, who takes responsibility for the report. Whenever a structural observation is performed by someone other than the SOR, that person's name and professional licence number shall be identified in the report. Deficiencies observed must be reported in writing to the owner's representative, relevant special inspectors, the contractor, and the City. All reports submitted to the City shall be sent to the address provided in the letterhead and the envelope should explicitly state the Project Address, Permit Number, and the Structural Plans Examiner associated with the project.



Building Services & Civil Enforcement  
slcpermits.com  
801-535-6000, fax 801-535-7750

451 South State Street, Room 215 PO Box 145490  
Salt Lake City, Utah 84111 Salt Lake City, Utah 84114-5490

Office only

Updated 5/2014

BLD #

Received by

Date

Valuation

## Special Inspection & Testing Agreement

To permit applicants or projects requiring special inspection and / or testing as per Chapter 17 of the 2012 International Building Code (IBC).

Project name

Building permit #

Address

Date

Before A Building Permit Can Be Issued: The registered design professional in responsible charge shall fill out this agreement in full. This is to include the name of the inspection agency, the full name of the applicable inspector for each category as well as their appropriate certification number (see the boxes on pages 3, 4 and 5).

Also attach to this form, as an added page, a copy of each listed inspector's current certificate.

Two copies of this form and the certificate copies are to be submitted to the City during the plan review (prior to the issuance of a building permit). If changes are made as to who will perform the special inspections, a new form shall be submitted to the Building Department for approval.

A pre-construction conference with the parties involved may be required to review the special inspection requirements and procedures. Please confirm this with your assigned Building Inspector.

Please Note: this special inspection is in addition to the regular inspections normally required for this project. In no way is a special inspection to be used as a substitute for any regular inspection.

Statement Of Special Inspections: In addition to this Agreement, a "Statement of Special Inspections" shall be provided per the currently adopted Building Code. This Statement shall be made a part of the approved permit plans, and be placed in a conspicuous location, such as the first page of the plans or the first page of the structural plans.

Special Inspectors: All special inspectors shall be approved by the Building Department prior to performing any duties. The special inspector shall provide proof of certification as a special inspector by the State of Utah for each inspection item. For specialty items, certifications provided by organizations other than the State may be accepted with approval from the Building Department. Special inspection and testing shall meet the minimum requirements of the currently adopted Building Code. The following conditions are also applicable:

### A DUTIES & RESPONSIBILITIES OF THE SPECIAL INSPECTOR:

#### 1 Observe work

The Special Inspector shall observe the work for conformance with the building department approved (stamped) design drawings and specifications and applicable workmanship provisions of the IBC. Architect/Engineer reviewed shop drawings and/or placing drawings may be used as an aid to the inspection. Special inspections are to be performed on a continuous basis. This means that the Special Inspector is on the site in the general area at all times observing the work requiring special inspection. Periodic inspections, if any, must have prior approval by the Building Department and shall be based on a separate written plan that has been reviewed and approved by the Building Department and the Project Engineer or Architect.

#### 2 Report non-conforming items

The Special Inspector shall bring non-conforming items to the immediate attention of the General Contractor and note all such items in the Daily Report. If any item is not

resolved in a timely manner, or is about to be incorporated in the work, the special inspector shall immediately notify, by telephone or in person, the Building Department, the Project Engineer or Architect, and post a discrepancy notice.

#### 3 Furnish daily reports

Special inspection reports are to meet the requirements of the currently adopted Building Code. Copies of each report are to be sent to the appropriate building inspector, noting the project address and permit number. Upon request, each special inspector shall complete and sign both the special inspector record and the daily report form for each day's inspections. Both are to remain on the job site with the General Contractor for review by the Building Department's inspector.

#### 4 Furnish weekly reports

The Special Inspector or inspection agency shall furnish weekly reports of tests and inspections directly to the Building Department, Project Engineer or Architect, and others as designated. These reports must include the following:

- a Description of daily inspection and tests made with applicable locations
- b Listing of all non-conforming items
- c Report how non-conforming items were resolved or unresolved as applicable
- d Itemized changes authorized by the Project Architect, Engineer & Building Department, if not included in non-conformance items.

#### 5 Furnish a final report

The Special Inspector or inspection agency shall submit a final signed report to the building department stating that all items requiring special inspection and/or testing were fulfilled and reported and, to the best of his/her knowledge, in conformance with the approved design drawings, specifications, approved change orders and the applicable workmanship provisions or the IBC. Items not in conformance, unresolved items or any discrepancies in inspection coverage (i.e., missed inspections, periodic inspections when continuous inspections were required, etc.) shall be specifically itemized in this final report.

### B CONTRACTOR RESPONSIBILITIES

#### 1 Notify the special inspector

The contractor is responsible for notifying the special inspector or agency regarding individual inspections for items listed in Section D of this agreement AND as noted on the building department approved plan. Adequate notice shall be provided so the special inspector has time to become familiar with the project.

#### 2 Provide access to the approved plans

The contractor is responsible for providing the Special Inspector access to approved plans at the job site.



**3 Retain special inspection records**

The General Contractor is also responsible for retaining at the job site, all special inspection records submitted by the Special Inspector, and providing these records for review by the Building Department's inspector upon request.

**C OWNER'S RESPONSIBILITIES**

- 1** The owner shall employ the engineer or architect responsible for the structural design or his designated engineer or architect to make visits to the job site to observe general compliance with the approved structural plans, specifications and change orders. The engineer or architect shall submit a statement, in writing, to the building official stating the job site visits have been made and that any deficiencies noted have been corrected. This shall not be construed to be a special inspection.

**D BUILDING DEPARTMENT RESPONSIBILITIES**

- 1 Approve special inspection**  
The building department shall approve all special inspectors and special inspection requests.
- 2 Monitor special inspection**  
Work requiring special inspection and the performance of special inspectors shall be monitored by the building department's inspector. His/her approval must be obtained prior to placement of concrete or other similar activities in addition to those of the special inspector.
- 3 Issue Certificate of Occupancy**  
The building department may issue a Certificate of Occupancy after all special inspection reports and the final report has been submitted and accepted.

Approved Fabricators: Salt Lake City is using the qualifications set forth by the State of Utah Department of Facilities Construction and Management as criteria to qualify as an Approved Fabricator to perform work on projects permitted in Salt Lake City. The link to the DFCM website is: [dfcm.utah.gov/downloads/bldg\\_official/approved\\_fabricator\\_requirements.pdf](http://dfcm.utah.gov/downloads/bldg_official/approved_fabricator_requirements.pdf)

Upon being listed on the State's Approved Fabricator Roster: [dfcm.utah.gov/downloads/bldg\\_official/approved\\_fabricator\\_list\\_11.pdf](http://dfcm.utah.gov/downloads/bldg_official/approved_fabricator_list_11.pdf), fabricators will likewise be considered certified for Salt Lake City.

**Only checked items are required**

General Special Inspection Items

Areas requiring special inspection	Name of Agency	Name of Inspector	License / Certificate #
<b>Fabricators</b>			
Steel construction			
Welding			
Details			
High-strength bolts			
Concrete / shotcrete			
<b>Materials</b>			
Empirical masonry – Cat. IV			
Engineered masonry – Cat. I-III			
Engineered masonry – Cat. IV			
High-load diaphragms			
Soils			
Pile foundations			
Pier foundations			
Sprayed fire-resistant materials			
Fire-resistant coatings			
EIFS			
Smoke control			
Other			
Other			

Special Inspections For Seismic Resistance

Areas requiring special inspection	Name of Agency	Name of Inspector	License / Certificate #
Structural steel			
Structural wood			
Cold-formed steel framing			
Pier foundations			
Storage racks & access floors			
Architectural components			
Mechanical & electrical items			
Designated system verification			
Seismic isolation systems			
Inspections for seismic resistance are not required			

Testing For Seismic Resistance

	Name of Agency	Name of Inspector	License / Certificate #
Empirical masonry – Cat. I-III			
Empirical masonry – Cat. IV			
Engineered masonry – Cat. I-III			
Engineered masonry – Cat. IV			
Reinforcing & prestressing steel			
Structural steel			
Qualification of mechanical & electrical equipment			
Seismically isolated structures			
Testing for seismic resistance is not required			

Seal

Declaration by Architect / Engineer

I, the design professional in responsible charge for this project, declare that the above checked items are the limit to which special inspections are to be performed.

Signature

Date

Declaration by Owner

I, the Owner of the project, declare that the above listed firm(s) or individual(s) are hired by me to perform special inspections and testing for the project pursuant to IBC 1704.1. The listed firm(s) or individual(s) are designated by me to be responsible for the special inspection and testing of this project.

Signature

Date

Declaration by General Contractor

I, the General Contractor of the project, agree to comply with the "Contractor Responsibility" items noted above.

Signature

Date



## Development Review Comments

---

**DATE:** December 28, 2017  
**SUBJECT:** Billboard Remodel  
**FROM:** Jason Draper  
**RE:** BLD2017-11022

Salt Lake City Public Utilities (SLCPU) development review has received and reviewed the improvement plans for the property located at 613 South 400 West. Please re-submit the proposed improvement plans with the following corrections for review:

Provide a complete updated site plan. Provide complete dimensions to the pole and sign overhang to the property lines.

Feel free to contact me with any questions or to discuss the review comments.

Jason Draper, PE, CFM, RSR, RSI  
Salt Lake City Public Utilities  
[jason.draper@slcgov.com](mailto:jason.draper@slcgov.com)  
801-483-6751

PU: JDraper: 12/28/2017; Peggy Garcia/file/PDOX/





DEPARTMENT of COMMUNITY and NEIGHBORHOODS

JACKIE BISKUPSKI  
MAYOR

ORION GOFF  
DIRECTOR

INITIAL BUILDING CODES PLAN REVIEW

Based on the Building (2015 IBC) and Existing Building (2015 IEBC) and their Utah State Amendments. For link to codes, see <http://www.slcgov.com/building/building-code>

<b>Date:</b> 15 December 2017	<b>Log No.:</b> BLD2017-11022
<b>Project Dox:</b> Yes	<b>Paper plans in bin:</b>
<b>Project Name:</b> YESCO	
<b>Addresses(es):</b> 613 S. 400 W.	

**APPLICANT CONTACT INFORMATION:**

**Name(s):** Neil Johnson

**Email:** [njohnson@yesco.com](mailto:njohnson@yesco.com)

**Phone:** 801-874-4028

**Reviewed by:** Will Warlick

**Email:** [william.warlick@slcgov.com](mailto:william.warlick@slcgov.com)

**Phone:** 801-535-7292

If you have any questions or comments email is the preferred method of contact.

To discuss this review in person, please call or email a request for an appointment with your reviewer.

Permit and zoning information is available by visiting the Building Services and Civil Enforcement website at: <http://www.slcgov.com/building>

The design package submitted for this proposed building permit at the above location has been reviewed for compliance with the state adopted codes and amendments. The comments below indicate that corrections, clarification or additional details are required. Please provide revised plans and supporting documents along with a written response to each comment.

**CODE ANALYSIS:**

Occupancy Classification: U

Construction Type: IIB

Valuation: ??

Are fire sprinklers existing: NA

Proposed: NA

Not Required: NA

Square feet of floor area: NA

Total Building sq. ft.: NA

Individual floors sq. ft.: NA

**Brief description of the scope of work:**

**Building Code Review Comments:**

General

- 1) Provide a permit valuation (value of the work, including labor and materials) 23,000
- 2) Provide structural calculations. ✓

- 3) Provide a Structural Observation Program Application, which can be found at: [http://www.slcdocs.com/building/Structural Observation 01-2017.pdf](http://www.slcdocs.com/building/Structural%20Observation%2001-2017.pdf).
- 4) Special Inspections, as required by the structural engineer of record, must be documented on our department's form which can be found at: [http://www.slcdocs.com/building/Special Inspection 11-13-14.pdf](http://www.slcdocs.com/building/Special%20Inspection%2011-13-14.pdf). Attach a copy of the certificate for each Special Inspector in the discipline as listed on the form. Special Inspectors must possess a minimum of one current certification from a recognized national organization; i.e. AWS (welding), ACI (concrete), AISC (steel), ICC (Int'l Code Council), etc.
- 5) Please note that all construction shall comply with the following codes Building (2015 IBC) and Existing Building (2015 IEBC) and their Utah State Amendments.

This concludes our *initial Building Code Review*.

For electronic plan reviews in Project Dox, please reply to this review by downloading a response letter the [Review Comment Responses](#) folder and revised or added drawings to the [Drawings](#) folder.

Thank you.



Building Services & Civil Enforcement  
slcpermits.com

451 South State Street, Room # 215  
Salt Lake City, Utah 84111  
PO Box 145490  
801-535-6000

Office Use Only

Updated 6/2016

BLD#:		Date:	
Received by:			
IBC approval:		Date:	
Zoning approval:		Date:	
Planning approval:		Date:	

### Billboard Construction Application

Property address: 613 S. 400 W

County tax parcel id #: 15-01-380-001      Zoning designation: CG: General Commercial

Project name: YESCO Outdoor Media billboard remodel

Contact Information:

Name: YESCO Outdoor Media - Mike Helm      E-mail: mhelm@yesco.com

Address: 1605 S. Gramercy Rd.      Phone: (801) 464-6400

Property Owner Information:

Name: Ameritel Inn, Elko, LLC      E-mail:

Address: 10200 West Emerald St., Boise, UT 83704      Phone: (801) 208-3752

Billboard Owner's Bank and Account:

Contractor Information:

Name: YESCO      State Licence #: 7232280-5501

Sign Information:

Area of each face in sq. ft.:    Face 1: 560      Face 2: NA      Total sq. ft.: 560

Illuminated Electronic Billboard: Yes  No

**\*PLEASE PROVIDE THE FOLLOWING INFORMATION WITH YOUR COMPLETED APPLICATION (ELECTRONICALLY AND ONLINE):**

A site plan, drawn to scale, which includes the following information:

- Property lines with dimensions;
- Footprint, location and setback of the proposed billboard;
- Footprint and location of all buildings, landscaping, parking facilities and/or other signs on the property;
- Location and dimension of all rights-of-way, alleys, streets and easements; and,
- Distance (spacing) to the nearest existing billboard on the same side of the street.

Elevations, drawn to scale, which include the height, width and length of the proposed billboard.

Structural Calculations, prepared by a Utah-licensed Structural Engineer.

✗ Submittal and completion of a Structural Observations application: [http://www.slcdocs.com/building/Structural\\_Observation\\_022015.pdf](http://www.slcdocs.com/building/Structural_Observation_022015.pdf)

➤ Electrical Design, prepared by a Utah-licensed Electrical Engineer.

✗ Submittal and completion of a Special Inspections application: [http://www.slcdocs.com/building/Special\\_Inspection\\_11-13-14.pdf](http://www.slcdocs.com/building/Special_Inspection_11-13-14.pdf)

**Payment of the Billboard Permit Construction fee: \$248.00**

Applicant's Signature:

Owner's Signature:

Typing of names in the signature fields is acknowledgment that this application has been completed correctly and agreement to be bound by its terms.

Permit approval requires that a footing, foundation and final inspection be conducted. Please call 801-535-6000 to schedule an inspection. Inspections may also be scheduled on-line at slcpermits.com.

All documents submitted by a design professional shall be sealed (date and signature across the seal).

Untitled

0001\_Index  
0002\_S.1\_Site Plan  
0003\_E.1\_Engineering

Page 1

YOM 00051





DEPARTMENT of COMMUNITY and NEIGHBORHOODS

JACKIE BISKUPSKI  
MAYOR

ORION GOFF  
DIRECTOR

INITIAL BUILDING CODES PLAN REVIEW

Based on the Building (2015 IBC) and Existing Building (2015 IEBC) and their Utah State Amendments. For link to codes, see <http://www.slcgov.com/building/building-code>

<b>Date:</b> 15 December 2017	<b>Log No.:</b> BLD2017-11022
<b>Project Dox:</b> Yes	<b>Paper plans in bin:</b>
<b>Project Name:</b> YESCO	
<b>Addresses(es):</b> 613 S. 400 W.	

**APPLICANT CONTACT INFORMATION:**

**Name(s):** Neil Johnson

**Email:** [njohnson@yescocom](mailto:njohnson@yescocom)

**Phone:** 801-874-4028

**Reviewed by:** Will Warlick

**Email:** [william.warlick@slcgov.com](mailto:william.warlick@slcgov.com)

**Phone:** 801-535-7292

If you have any questions or comments email is the preferred method of contact.

To discuss this review in person, please call or email a request for an appointment with your reviewer.

Permit and zoning information is available by visiting the Building Services and Civil Enforcement website at: <http://www.slcgov.com/building>

The design package submitted for this proposed building permit at the above location has been reviewed for compliance with the state adopted codes and amendments. The comments below indicate that corrections, clarification or additional details are required. Please provide revised plans and supporting documents along with a written response to each comment.

**CODE ANALYSIS:**

Occupancy Classification: U

Construction Type: IIB

Valuation: ??

Are fire sprinklers existing: NA

Proposed: NA

Not Required: NA

Square feet of floor area: NA

Total Building sq. ft.: NA

Individual floors sq. ft.: NA

**Brief description of the scope of work:**

**Building Code Review Comments:**

General

- 1) Provide a permit valuation (value of the work, including labor and materials)
- 2) Provide structural calculations.

- 3) Provide a Structural Observation Program Application, which can be found at: [http://www.slcdocs.com/building/Structural\\_Observation\\_01-2017.pdf](http://www.slcdocs.com/building/Structural_Observation_01-2017.pdf).
- 4) Special Inspections, as required by the structural engineer of record, must be documented on our department's form which can be found at: [http://www.slcdocs.com/building/Special\\_Inspection\\_11-13-14.pdf](http://www.slcdocs.com/building/Special_Inspection_11-13-14.pdf). Attach a copy of the certificate for each Special Inspector in the discipline as listed on the form. Special Inspectors must possess a minimum of one current certification from a recognized national organization; i.e. AWS (welding), ACI (concrete), AISC (steel), ICC (Int'l Code Council), etc.
- 5) Please note that all construction shall comply with the following codes Building (2015 IBC) and Existing Building (2015 IEBC) and their Utah State Amendments.

This concludes our *initial Building Code Review*.

For electronic plan reviews in Project Dox, please reply to this review by downloading a response letter the [Review Comment Responses](#) folder and revised or added drawings to the [Drawings](#) folder.

Thank you.



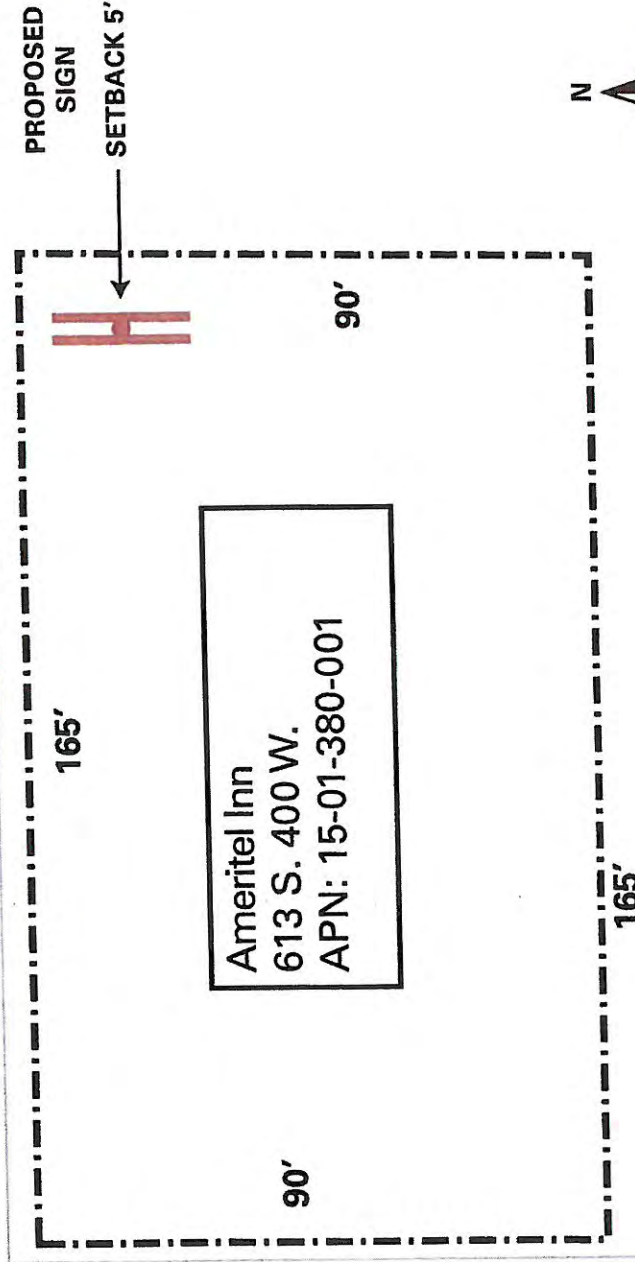
# YESCO Outdoor Media.

1605 S Gramercy Road  
Salt Lake City, UT 84014

Mike Helm  
Director of Real Estate  
Phone: 801.464.6400  
Cell: 801.694.3086  
email: mhelm@yesco.com

600 South

400 West



12/6/2017

Mail - YESCO billboard repair



Mike Helm <mhelm@yesco.com>

---

## YESCO billboard repair

---

**Brown, Ken** <Ken.Brown@slcgov.com>  
To: Mike Helm <mhelm@yesco.com>

Tue, Nov 21, 2017 at 3:40 PM

Mike,

Along with the pertinent information identified on the Billboard Construction Application, we may also need the existing billboard information documented (location and setbacks from front and corner side yard property lines, number of faces, size, height, etc.).

Thanks for asking.

**KEN BROWN**

Senior Development Review Planner

**BUILDING SERVICES DIVISION**

**DEPARTMENT of COMMUNITY and NEIGHBORHOODS**

**SALT LAKE CITY CORPORATION**

TEL 801-535-6179

FAX 801-535-7750

[WWW.SLCGOV.COM/BUILDING](http://WWW.SLCGOV.COM/BUILDING)

**From:** Mike Helm [mailto:mhelm@yesco.com]  
**Sent:** Tuesday, November 21, 2017 1:54 PM  
**To:** Brown, Ken <Ken.Brown@slcgov.com>  
**Subject:** YESCO billboard repair

Ken,

YESCO has a billboard along 600 South that had some damage during a storm last summer. YESCO intends to submit a building permit application prior to beginning work. I intend to submit the city's billboard construction application along with a two sets of engineering and a site plan. Will there be anything else you need?

12/6/2017

Mail - YESCO billboard repair

**Mike Helm**  
Director of Real Estate  
YESCO Outdoor Media

1605 S. Gramercy Rd.  
Salt Lake City, UT 84104

801.464.6406 **PHONE**  
801.694.3086 **CELL**

801.467.3447 **FAX**

[ ]



DEPARTMENT of COMMUNITY and NEIGHBORHOODS

JACKIE BISKUPSKI  
MAYOR

ORION GOFF  
DIRECTOR

CYCLE 1 ZONING PLAN REVIEW

(Based on the Salt Lake City ordinance Title 21A)

**Date:** December 26, 2017 **Log No:** BLD2017-11022  
**Zoning District:** CG  
**Project Name:** Yesco Outdoor Media  
**Address:** 613 S 400 W

**APPLICANT CONTACT INFORMATION:**

**Name:** Neil Johnson **Phone:** 801-874-4028  
**Email:** njohnson@yesco.com

**Reviewed by:** Ken Brown **Phone:** 801-535-6179  
**Email:** ken.brown@slcgov.com

To discuss this review in person, please call or email a request for an appointment.

Permit and zoning information is available by visiting the Building Services and Civil Enforcement website at:  
<http://www.slcgov.com/building>

This building permit application at the above located address has been reviewed for compliance with the Salt Lake City zoning code. The comments below indicate that corrections, clarification or additional details are required.

**Zoning Review Comments:**

- 1) It is understood that the existing billboard support structure, which is being proposed for remodel, remains on this site on a ~~month to month~~ <sup>yr. to yr.</sup> lease and will be required to be removed to accommodate new development at this site in the near future. Please upload documentation from owners of the site, documenting that there is a current lease in place. This documentation is to be uploaded into the City Required Forms folder.
- 2) Doug Dansie of the Planning Div. states "Billboards are not allowed on gateway streets. The previous billboard on this site was removed months ago - so there is nothing to move or rebuild Referred to City attorney". Please resolve this issue and document the outcome. This documentation is to be uploaded into the City Required Forms folder. - *structure still on site. PCS*
- 3) Please provide any documentation that you may have in regards to the original permit number, elevation datum at the base of the billboard structure and the top of the billboard, number of faces, and size of each face. This information may be identified as "Existing Conditions" and may be uploaded into the City Required Forms folder or on the site plan and elevation drawings.
- 4) The site plan for this proposal will need to address the following:

YOM 00057

- a) Scale at which it is drawn (1" = 20' minimum).
- b) Along with the new/current parcel number; the new/current property line dimensions, the new/current legal description as well as the current/proposed conditions of the site, including the other existing billboard located on this site and distance between the two.
- c) Existing and proposed distances between the 600 South property line and all parts of the existing and proposed billboards and billboard structure.
- d) Elevation datum at the base of the billboard structure and the top of the billboard face.
- e) Billboards to maintain clearances to power lines as determined by Rocky Mountain Power and NESC Rules.
- f) Properties in this CG zoning district upon which a billboard is the only structure, shall be landscaped from the front of the property to the deepest interior point of the billboard for fifty (50) lineal feet along the street frontage distributed, to the maximum extent possible, evenly on each side of the billboard. - Existing use

This concludes this Zoning Review.

After **all** reviewers have completed their task:

Please reply to this review by downloading a response letter into the [Review Comment Responses](#) folder and revised or added drawings to the [Drawings](#) folder. All drawing revisions are to be uploaded into the Drawings folder, using the exact same naming of each sheet to maintain order and version sequence.

Thank you.

ATTACHMENT C: SLC **Attorney's Response to Appeal**  
Arguments

---



**ADMINISTRATIVE HEARING OF A LAND USE APPEAL**

(Case Nos. BLD2018-06867 and PLNAPP2019-00727)

(October 10, 2019)

Appellant: YESCO Outdoor Media  
Decision Making Entity: Zoning Administrator  
Request: Appealing the City’s denial of a request to rebuild and relocate a billboard  
Brief Prepared by: Samantha Slark, Senior City Attorney  
Katherine Lewis, Senior City Attorney

---

On July 23, 2019, Salt Lake City Corporation (“City”) denied YESCO Outdoor Media’s (“YESCO”) application to relocate an abandoned unused billboard/billboard pole (“Pole”) from 643 South 400 West (“Original Location”) to 342 West 1300 South (“New Location”). On August 1, 2019, YESCO appealed.

**FACTS**

1. YESCO owned a billboard located at approximately 613 South 400 West (also referred to as 643 South 400 West in other YESCO applications to the City) (“Current Location”).
2. The billboard was damaged by a windstorm in June 2017 and currently, only a pole remains (the “Pole”). (See Photo, **Exhibit A**).
3. On December 11, 2017, YESCO filed an application with the City to “remodel” the Pole because the billboard was damaged in an “act of God (wind damage).” (See Permit Data for BLD 2017-11022, **Exhibit B**).
4. YESCO then initiated conversations with the City inquiring whether the City would allow YESCO to build a new two-faced billboard along 1-15, at approximately 643 West 800 South (the “Fear Factory Property”), if YESCO removed the Pole and another single faced billboard.
5. The proposition was not attractive to the City.
6. Then, on July 11, 2018, YESCO filed an application with the City to relocate the Pole to the Fear Factory Property at 643 West 800 South. (See Permit Data for BLD 2018-06867, **Exhibit C**).
7. A couple of days later, YESCO received notice from UDOT that it considered the billboard abandoned and that YESCO had 365 days from the date of the notice to remedy that condition. (See Email from UDOT to YESCO Re: Abandonment of Billboard, **Exhibit D**.)

8. The City began processing YESCO's new request to relocate to the Fear Factory Property YESCO's inquiries of whether it could build a new two-faced billboard, if it removed the Pole and another billboard, continued.

9. On November 11, 2018, the City received yet another building permit application from YESCO. (*See* Permit Data for BLD 2018-10067, **Exhibit E**).

10. This time YESCO requested to move an existing billboard on the Fear Factory Property to another location on the Fear Factory Property pursuant to Utah Code § 72-7-510.5, which allows relocation within 500 feet or an increase in height to remedy visibility issues caused by specifically identified highway improvements. (*See* Permit Data, BLD 2018-10067, **Exhibit E**; *see also* Utah Code § 72-7-510.5.).

11. Under Utah law, two interstate facing billboards must be at least 500 feet away from each other. (*See* Utah Code 72-7-505(3)(a).)

12. The City assumes YESCO filed this request because its July 18, 2018 request to relocate the Pole to the Fear Factory Property would put the Pole within 500 feet of its existing billboard on the Fear Factor Property, which (if the Pole were a billboard) is not permitted by state law. (*Id.*)

13. On December 3, 2018, the City conducted an initial review of YESCO's request to move the billboard already located on the Fear Factory Property and determined it was not permitted. (*See* Initial Zoning Plan Review, BLD2018-10067, **Exhibit F**).

14. After receiving notice that the existing Fear Factory billboard could not be moved on the Fear Factory Property, YESCO inquired on the status of its July 18, 2018 request to move the Pole to the Fear Factory Property. (*See* Letter from Mike Helm to Salt Lake City's Building Services Division dated March 20, 2019, **Exhibit G**).

15. Consistent with State Law, the City communicated the request was denied because relocating the Pole to the Fear Factory Property (if indeed relocating a Pole is allowed) would "result in two interstate facing billboards being within 500 feet of each other, which is not permitted by Utah Code." (*See* Letter from Joel Paterson to Mike Helm dated April 10, 2019, **Exhibit H**).

16. YESCO responded claiming it was in the process of moving the billboard on the Fear Factory Property, which would resolve the issue of the two billboards being within 500 feet. (*See* Letter from Mike Helm to Joel Patterson, Apr. 22, 2019, **Exhibit I**.)

17. Two months later, YESCO sent the City another letter changing course again. This time YESCO withdrew its request to relocate the Pole to the Fear Factory Property, and instead requested to relocate it to a new location, 342 West 1300 South. (*See* Letter from Mike Helm to Joel Paterson, dated June 24, 2019, **Exhibit J**).

18. On July 18, 2019, the City denied YESCO's request to relocate the Pole to 342 West 1300 South. (See Letter from Joel Paterson to Mike Helm dated July 18, 2019, **Exhibit K**).

19. The City denied YESCO's request because (1) it was not clear that 342 West 1300 South was within 5,280 feet of the Pole's Original Location; and (2) YESCO's application improperly attempts to combine two separate and distinct rights: (1) a right to rebuild or repair a billboard at its current location that has been damaged by an act of God, and (2) a right to relocate a fully functioning billboard into a commercial, manufacturing and industrial zone within a mile of the original location, provided the new location meets the billboard spacing requirements. (*Id.*; see also Utah Code 10-9a-513(2)(b), **Exhibit L**).

20. On August 1, 2019, YESCO appealed the City's denial.

### **SUMMARY OF ARGUMENT**

As an initial matter, the appeals hearing officer should decline to hear YESCO's appeal because all YESCO's arguments require an interpretation of State law. The authority of City hearing officers is limited to interpretations of Salt Lake City Code and this matter should be referred directly to the Third District Court.

To the extent the hearing officer reaches the merits of this appeal, the City's decision should be upheld because Utah law does not give a billboard owner the right to build a new billboard in a new location based on claims it is relocating an abandoned, unused, billboard pole. Moreover, the billboard is abandoned, and the City has the right to require its removal.

### **ARGUMENT**

#### **I. The Hearing Officer does not have Jurisdiction to Hear this Appeal.**

The hearing officer does not have authority to decide this appeal. The City's hearing officers are conferred authority to review for correctness a zoning administrator's interpretation or application of Salt Lake City Code.<sup>1</sup> The City's hearing officers do not have authority to determine the scope or meaning of provisions of the Utah Code.<sup>2</sup> Those determinations are for the district court.

---

<sup>1</sup> Salt Lake City Code § 21A.16.010 ("the hearing officer shall hear and decide appeals alleging an error in any administrative decision made by the zoning administrator...in the administration or enforcement of [Title 21A].")

<sup>2</sup> See e.g. Utah Code 10-9a-707(4) ("Only those decisions in which a land use authority has applied a land use ordinance to a particular application, person, or parcel may be appealed to an appeal authority."); *Bennion v. Sundance Development*, 897 P.2d 1232, 1236, n.5 (Utah 1995)(finding County board was limited to review of interpretation of County code).

No Utah appellate court has ruled on this issue,<sup>3</sup> but at least one Third District Court Judge agrees with the City's position on this point:

The Hearing Officer is the designated appeal authority and the officer's authority is limited to considering applications of land use ordinances. *See* Utah Code § 10-9a-707(4) ("Only those decisions in which a land use authority has applied a land use ordinance to a particular application, person, or parcel may be appealed to an appeal authority."); City Code § 21A.16.010 (authority of Hearing Officer). The Hearing Officer does not have authority to determine, on a de novo or any other basis, whether the City's decisions were correct under State law. That determination is left to the district court. *See* Utah Code § 10-9a-801(2)(a) ("Any person adversely affected by a final decision made in the exercise of or in violation of the provisions of this chapter may file a petition for review of the decision with the district court . . ."). To the extent that the Hearing Officer considered the City's application of state law - that is the City's decision to waive ( or not waive) the City Code's prohibition on billboard relocation pursuant to Section 511 - the court will disregard the Hearing Officer's decision and instead review the Mayor's decision as if [it] had been appealed directly pursuant to section 10-9a-801(2)(a), applying the arbitrary, capricious, or illegal standard of section 10-9a-801(3)(a). Insofar as the Hearing Officer considered or applied City Ordinance, the court will review the Hearing Officer's decision under the same standard.<sup>4</sup>

YESCO's appeal is based solely on arguments regarding the correct interpretation of Utah Code, which the hearing officer does not have authority to decide. Accordingly, the City requests that the hearing officer decline to hear the appeal and instruct YESCO to seek a remedy directly with the district court. If the hearing officer hears this appeal, the City's decision should be affirmed for the reasons set forth below.

## **II. YESCO Does not have a Right to Relocate the Abandoned Billboard/Billboard Pole.**

### **A. The Rights Set Forth in Utah Code § 10-9a-513(2)(b).**

Utah Code § 10-9a-513(2)(b) identifies five actions a billboard owner has a right to take with respect to a billboard.

---

<sup>3</sup> *Outfront Media, LLC v. Salt Lake City Corp.*, 2017 UT 74, ¶ n. 6 & 7, 416 P.3d 389 (finding it unnecessary to rule on the scope of the hearing officer's authority to make determinations regarding interpretation of Utah State Code to determine the issues on appeal).

<sup>4</sup> Ruling & Final Order, p. 6-7, Feb. 3, 2016, *Outfront Media v. Salt Lake City*, Case No. 160900413, **Exhibit M**. *See also Bennion*, 897 P.2d at 1236, n.5 (Utah 1995) (finding County board was limited to review of interpretation of County code).

(b) Subject to Subsection (2)(a), a billboard owner may:

- (i) *rebuild, maintain, repair, or restore a billboard structure that is damaged by casualty, an act of God, or vandalism;*
- (ii) relocate or rebuild a billboard structure, or take another measure, to correct a mistake in the placement or erection of a billboard for which the municipality issued a permit, if the proposed relocation, rebuilding, or other measure is consistent with the intent of that permit;
- (iii) structurally modify or upgrade a billboard;
- (iv) *relocate a billboard into any commercial, industrial, or manufacturing zone within the municipality's boundaries, if the relocated billboard is:*
  - (A) *within 5,280 feet of the billboard's previous location; and*
  - (B) *no closer than 300 feet from an off-premise sign existing on the same side of the street or highway, or if the street or highway is an interstate or limited access highway that is subject to Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the distance allowed under that act between the relocated billboard and an off-premise sign existing on the same side of the interstate or limited access highway; **or***
- (v) make one or more of the following modifications, as the billboard owner determines, to a billboard that is structurally altered by modification or upgrade under Subsection (2)(b)(iii), by relocation under Subsection (2)(b)(iv), or by any combination of these alterations:
  - (A) erect the billboard:
    - (I) to the highest allowable height; and
    - (II) as the owner determines, to an angle that makes the entire advertising content of the billboard clearly visible; **or**
  - (B) install a sign face on the billboard that is at least the same size as, but no larger than, the sign face on the billboard before the billboard's relocation.

Subsections 513(2)(b)(i) and (iv), indicated in italics, are at issue in this case. With respect to subsection 513(2)(b)(i), the statute gives YESCO a right to repair a billboard if it is damaged by an act of God or vandalism. The purpose of this provision is to allow a billboard owner to repair its billboard and continue in its business in its current location. YESCO claims its billboard was damaged by an act of God in June 2017, but to date has not exercised its right to repair the damaged billboard and resume business.<sup>5</sup> The billboard has existed in a damaged and abandoned state for more than two years.

With respect to subsection 513(2)(b)(iv), the statute provides a separate and distinct right to relocate an existing and operational billboard into a commercial, manufacturing or industrial zone within one mile of its current location, provided the new location is not within 300 or 500 feet of an existing billboard. The purpose of this provision is to allow a billboard owner to carry

---

<sup>5</sup> In fall 2017 YESCO did file an application to remodel the Pole at the current location, but for reasons known only to YESCO it later abandoned that request in favor of an application requesting a move to the Fear Factory Property and attempts to negotiate a deal with the City.

on the business of its billboard, if it is required to move because of such things as construction or an expiring lease. YESCO has filed a succession of unsuccessful applications in an attempt to utilize this provision to build a billboard at a new location, but all must fail because YESCO cannot satisfy the predicate condition of having an existing functioning billboard to relocate.

**B. The Rights Set Forth in Utah Code § 10-9a-513(2)(b) are Exclusive.**

The five categories of billboard owners' rights set forth in subsection 513(2)(b) are exclusive and cannot be combined in a single request. When reviewing a statute, courts are charged with looking first to the plain language of the statute and must "presume that the legislature used each word advisedly, and [ ] give effect to each word according to its usual and accepted meaning."<sup>6</sup> The plain language of Utah Code § 10-9a-513(2)(b) gives a billboard owner the right to "rebuild, maintain, repair, or restore a billboard structure that is damaged by casualty, an act of God, or vandalism" **or** relocate a billboard to a commercial, industrial or manufacturing zone within one mile, provided it meets the spacing requirements with respect to other billboards. The "usual and accepted meaning" of the word "or" is "a function word to indicate an alternative."<sup>7</sup> When used in a statute "or" is understood to identify a choice of one among the various choices presented. Utah's Legislative Drafting Manual provides clear direction on this point. It states that "or" should be used when only one item in a list is permissible and that the drafter should use terms such as "both" or "one or more of the following" if more than one option is permissible.<sup>8</sup> The manual also specifically addresses use of "or" when drafting a provision that contains an "interlocked unit," i.e., a list of conditions, exceptions or options. The manual specifically provides that "[i]n general, an 'and' or an 'or' should proceed the last item in the interlocked unit."<sup>9</sup>

---

<sup>6</sup> *Versluis v. Guaranty Nat'l. Co.*, 842 P.2d 865, 867 (Utah 1992).

<sup>7</sup> <http://www.merriam-webster.com/dictionary/or>.

<sup>8</sup> Utah's Legislative Drafting Style Manual states in pertinent part:

**And, Or**

Never use "and/or." A legislative drafter should determine which term is correct. However, even an experienced drafter has difficulty in making the distinction in all cases. In determining whether "and" or "or" is appropriate, a legislative drafter must determine if a sentence is mandatory or permissive. If all the items in an enumeration are to be taken together, they may be joined at the last two items by the conjunction "and." If the items are to be taken in the alternative, "or" is used. If terms are to be taken both together and in the alternative, the "and/or" should not be used, but a legislative drafter should consider:

- using a phrase similar to "or both" or "a combination of"; or
- making the introductory language clear using phrases such as "one or more of the following."

See Utah's Legislative Drafting Style Manual, Utah State Legislature, available at <http://le.utah.gov/documents/LDM/draftingManual.html#book1>.

<sup>9</sup> *Id.* at Section C., *Conjunction*.

It also makes clear that “[a]nd’ is used to create a cumulative effect. “Or” is used to indicate alternatives.’”<sup>10</sup> Subsection 513(2)(b) is drafted in exactly the form described by the Utah manual on legislative drafting. It is an interlocked unit, which offsets the last provision with an “or.” The legislature specifically chose the word “or” and the hearing officer is required to find that choice was purposeful and give that word its intended effect.

YESCO contends that “or” can be understood as both an exclusive and inclusive disjunctive and should in this circumstance be understood to mean “either or both” or “one or more of the following.” This is contrary to the direction provided by Utah’s drafting manual, previously discussed. It is also contrary to numerous decisions, which states that when used in a statute the word “or” is generally understood as exclusive and to indicate a choice between one of two or more choices.<sup>11</sup> Even the cases cited by YESCO support this conclusion or are easily distinguished.<sup>12</sup> Utah courts also instruct against “adding to or deleting from statutory language, unless absolutely necessary to make it a rational statute.”<sup>13</sup> Such addition or elimination is not necessary to make subsection 513(2)(b) a rational statute. There are five categories of rights set forth in subsection 513(2)(b), which are clearly intended to address different situations. Subsection 513(2)(b)(i) addresses the situation where a billboard cannot continue to do business because it has been destroyed by an act of God. Therefore, the subsection permits the billboard owner to rebuild or repair the billboard at that location to resume its business. Subsection 513(2)(b)(iv) addresses a very different situation, one where a billboard cannot continue to do business because

---

<sup>10</sup> *Id.*

<sup>11</sup> See e.g. *Loughrin v. U.S.*, 134 S. Ct. 2384, 2390 (2014) (stating the ordinary use of the word “or” “is almost always disjunctive, that is, the words it connects are to be given separate meanings.”); *Eddie E. v. Superior Court*, 234 Cal. App. 4th 319, 327 (Cal App. 4 Dist. 2015) (“The plain and ordinary meaning of the word ‘or’ is well established. When used in a statute, the word ‘or’ indicates an intention to designate separate, disjunctive categories.”); *State v. Gear*, 339 P.3d 1034, 1037 (Ariz. App. Div. 1, 2014) (“Or” is “a disjunctive particle used to express an alternative or to give a choice of one among two or more things.”); *Jespersion v. Auto Club Ins. Ass’n*, 858 N.W.2d 105, 111 (Mich. App. 2014) (“The word “or” is a disjunctive term indicating a choice between alternatives.”) *Knutzen v. Eben Ezer Lutheran Housing Center*, 815 F.2d 1343, 1349 (10<sup>th</sup> Cir. 1987) (stating “we therefore cannot ignore the use of the “or” in all of the above phrases. Moreover, unless the context or congressional intent indicates otherwise, the use of a disjunctive in a statute and regulations indicates that alternatives were intended.”)

<sup>12</sup> *DietGoal Innovations LLC v. Chipotle Mexican Grill, Inc.*, No. 2:12CV00764WCBRS, 2015 WL 164072, \*1-4 (E.D. Tex. Jan. 13, 2015) (finding “or” should be understood as exclusive in Rule 54(d) of the Federal Rules of Civil Procedure); *Hansen v. U.S. Bank, Nat’l Ass’n*, No. 4:15-CV-00085-BLW, 2016 WL 7105865, \*4-5 (D. Idaho Dec. 5, 2016) (finding judge’s use of “or” in an Order, not a statute, should be understood to be inclusive given the context in which the order was written); *Burke v. State ex rel. Dep’t of Land Conservation & Dev.*, 290 P.3d 790, 794 (2012) (permitting an inclusive reading of “or” based in part on Oregon’s legislative drafting manual that states, directly opposite to Utah’s drafting manual, that “or” is presumed to be inclusive.)

<sup>13</sup> *Luckau v. Bd. of Rev. of Indus. Comm’n of Utah*, 840 P.2d 811, 815 (Utah App. 1992); see also *Loughrin*, 134 S.Ct. at 2390 (declining to adopt plaintiff’s construction of a statute that “effectively reads ‘or’ to mean ‘including’—a definition foreign to any dictionary we know of.”).

of construction changes in the area or the property owner is terminating the lease and evicting the billboard. In those circumstances, the subsection allows the billboard owner to relocate the billboard within one mile into an appropriately zoned area, if the spacing requirements with respect to other billboards can be met. There is no need to add or remove language to make the statute “rational” and the hearing officer should decline YESCO’s invitation to do so.

YESCO also contends that “or” should be understood to mean “either or both” because the statute does not contain limiting language like “either . . . or” or “but not both.” This argument turns Utah’s legislative drafting presumptions on their head. The presumption is that “or” is exclusive and if another meaning is intended additional language should be added.<sup>14</sup> Indeed, the legislature has made clear in its various billboard statutes, and even in this subsection, that it knows how to indicate when one or more of the options is permissible. For example, Utah Code § 72-7-510.5(1) offsets two options for adjusting a billboard to remedy visibility issues with an “or,” indicating the billboard owner may do one or the other, but not both.<sup>15</sup> A position the City took in another matter, which was upheld by the Third District Court.<sup>16</sup> In contrast, subsection 510.5(4) lists the billboard owners’ options with respect to height adjustments to signs and uses the word “and,” indicating the billboard owner may take advantage of all options listed.<sup>17</sup> Likewise, in subsection 513(2)(b)(v) the statute clarifies the items listed within that specific right allow for “any combination of” the listed options. That language is not included with respect to listing the five rights identified in subsection 513(2)(b) and that omission must be understood as purposeful and given its intended effect.<sup>18</sup>

Finally, YESCO contends that “or” should be understood as “either or both” because each of the five categories of rights identified in subsection 513(2)(b) contain the word “or” within the clause setting forth the right. Again, Utah’s drafting manual provides assistance. It provides that the use of “or” between interlocked units, i.e., each of the five categories, shows exclusive rights. This does not mean that read in light of the context, the use of “or” within each identified right could be afforded a different meaning based on all the factors discussed above.

The interlocked unit is separated by the word “or” and YESCO’s attempt to combine the rights enunciated in subsections (i) and (iv) in one single request is not permitted.

---

<sup>14</sup> See *supra* footnote 8.

<sup>15</sup> Utah Code § 72-7-510.5(1).

<sup>16</sup> See Order of Dismissal, *Outfront Media f/k/a/ CBS Outdoor v. Salt Lake City Corp.*, Case No. 150900004, **Exhibit N**.

<sup>17</sup> Utah Code § 72-7-510.5(4).

<sup>18</sup> *Marion Energy, Inc. v. KFJ Ranch P’ship*, 2011 UT 50, ¶ 14, 267 P.3d 863 (stating statutory construction “presumes that the expression of one [term] should be interpreted as the exclusion of another.”); *State v. Jacobs*, 2006 UT App 356, ¶ 7, 144 P.3d 226 (stating effect should be given to “any omission in the [statute’s] language by presuming that the omission is purposeful.”)



**C. Interpreting “or” as Exclusive is Consistent with the Purpose of Section 513(2)(b) and Does Not Give Rise to “Bizarre” or Absurd Results.**

YESCO’s contention that reading “or” as exclusive gives rise to “bizarre” or absurd results is not well taken. YESCO’s examples do not show otherwise. For example, YESCO contends interpreting the rights under subsection 513(2)(b) as exclusive gives rise to a result where a billboard owner could not repair a billboard that is damaged by an act of God after it moves it to a new location. This is not true. Of course, a billboard owner can make a separate and subsequent request to repair a billboard under subsection 513(2)(b)(i), if it is damaged after a proper relocation under subsection 513(2)(b)(iv). YESCO’s example of a billboard being damaged by an act of God at the end of a lease is equally flawed. That situation would resolve in one of two ways. One, the damage would occur long enough before the end of the lease that the billboard owner would exercise its right to repair the billboard and put it back in business for the remainder of the lease. Two, if the act of God really did occur just days before the end of the lease making it impractical for the billboard owner to apply to repair the billboard before it is relocated, the billboard owner would have already applied and received approval for relocation of the billboard, making it a non-issue. YESCO has had ample opportunity to repair the Pole and put it back into business at its current location and to date has chosen not to pursue that right. Indeed, YESCO may still exercise this option and once repaired and operating, a subsequent request to relocate can be considered.

What the statute does not permit a billboard owner to do, and exactly what YESCO is attempting to achieve, is build a new billboard at a new location based on claims of relocating a currently unused, derelict, and abandoned billboard. Indeed, it is this result that is absurd and contrary to the express purpose of the statute. When subsection 513(2)(b)(iv) was enacted, Senators speaking to the bill made clear that the statute “would not allow any additional billboards in the state of Utah.”<sup>19</sup> Emphasizing, “[w]e will not be having additional billboards because of this bill.”<sup>20</sup> To allow YESCO to build a new billboard at the New Location based on claims it is relocating a billboard it has failed to use or maintain for more than two years, runs contrary to this clearly stated purpose and sets a dangerous precedent. Billboard owners could assert a right to build new billboards based on a claim that they are relocating a billboard that was destroyed or demolished many years ago.

YESCO’s emotional argument that “billboards are under attack by municipalities throughout Utah (especially within Salt Lake City)” fares no better. Municipalities have a right to regulate billboards in their community. State law provides certain limited rights to billboards that trump any regulation a municipality may invoke. But those State created rights are limited to what is enunciated in the statutes. The fact that none of the enunciated rights provides YESCO the result it desires is not a valid reason for reading the statutory rights more broadly than they are drafted and the hearing officer should not accept YESCO’s invitation to do so.

---

<sup>19</sup> H.B. 352 Local Government Regulation of Billboards, S. Floor Debates, Day 45, 2007 Leg. Sess., (Utah 2007) (statements of Senator Waddoups at 3:21.30-45) Recordings of the floor debates for this bill can be found at: <https://le.utah.gov/~2007/bills/static/HB0352.html>.

<sup>20</sup> *Id.*

### III. YESCO Does not have a Right to Relocate its Abandoned Billboard.

In addition to YESCO having no right to relocate the Pole, the City has the right to mandate the removal of the Pole without payment of just compensation. A billboard owner is required to remove a billboard if it is abandoned for more than twelve months and the billboard owner has failed to remedy the abandonment within 180 days of receiving notice to do so.<sup>21</sup> By YESCO's own admission, this billboard has been in a state of abandonment since at least June 2017. On July 18, 2018, YESCO received notice from UDOT that it considered the Pole an abandoned billboard and that YESCO had 365 days to remedy the abandonment, which YESCO has not done.<sup>22</sup> Under UDOT's administrative rules, if a sign is abandoned, UDOT can send the owner a Notice of Agency Action giving the sign owner a period of time to correct the abandonment before the permit is revoked.<sup>23</sup> If the abandonment is not corrected, UDOT may require removal.<sup>24</sup> The City has requested information from UDOT about the status of its notifications to YESCO about the Pole. On July 18, 2019, the City provided YESCO notice that it considered the Pole an abandoned billboard and will require its removal, if the abandonment is not remedied within 180 days of the date of the letter. YESCO has taken no steps to remedy that abandonment. If the abandonment is not remedied by January 14, 2020, the City will require its removal and no compensation will be owed.

#### CONCLUSION

In summary, the hearing officer should decline to hear YESCO's appeal because the City's hearing officers only have authority to hear and decide issues involving an interpretation of Salt Lake City Code. To the extent the hearing officer hears this appeal, the City's decision should be affirmed. Utah Code § 10-9a-513(2)(b) does not give YESCO the right to build a new billboard at a new location based on claims it is relocating an abandoned, derelict, and disused billboard pole.

---

<sup>21</sup> Utah Code § 10-9a-513(3).

<sup>22</sup> See **Exhibit D**.

<sup>23</sup> Utah Admin. Rule R. 933-2-10.

<sup>24</sup> *Id.*

# **Exhibit A**



# **Exhibit B**



# Citizen Access Portal

- Announcements
- Register for an Account
- Receipt/Reports (4)
- Login

- Home
- Building
- Business License
- Civil Enforcement
- Engineering
- Events
- Fire
- Fix the Bricks
- Planning
- Property Management
- more

- Check/Research Permits
- Schedule an Inspection

## Record BLD2017-11022:

Sign

Record Status: In For Review

Record Info

Payments

### Work Location

613 S 400 W  
Salt Lake City

### Record Details

#### Applicant:

Neil Steven Johnson  
YESCO Outdoor Media, LLC  
1605 S Gramercy Rd  
Salt Lake City, UT, 84104  
Phone 2: (Mobile)801-464-6428  
Fax: 801-467-3447  
njohnson@yesco.com

#### Licensed Professional:

Neil Johnson  
Yesco LLC  
1605 S Gramercy Road  
Salt Lake City, UT, 84104  
Phone 1: (Work)8014646428  
PROFESSIONAL 7232280-5501

#### Project Description:

YESCO OUTDOOR MEDIA  
BILLBOARD REMODEL

#### Owner:

AMERITEL INN, ELKO, LLC; ET AL  
10200 W EMERALD ST  
BOISE ID 83704

#### More Details

##### Application Information

###### SIGN PERMIT

Proposed Square footage of each sign:	560
Height of proposed sign:	40'-6"
Projection over city property?:	No
Is sign to be illuminated?:	Yes
Use Type (Sign):	Remodel
Permit Details/Comments:	Maintenance-act of God. (wind damage)/ Utah Code section: 72.7.509 (2) allows for remodel
Proposed Square Footage - Sign Type:	560 square feet total - Billboard
Project Dox:	Yes

##### Parcel Information

**Parcel Number:**  
15-01-380-001-0000

**Land Use:**  
VACANT LAND (INDUSTRIAL)

**Legal Description:**  
0608. BEG AT NW COR LOT 5, BLK 25, PLAT A, SLC SUR; E 10 RDS; S. 90-3/4 FT; W 10 RDS; N 90-3/4 FT TO BEG 4505-0064 6092-2501. 6092-2500 9099-2759,2774 9101-0116 9104-8644 9304-6937, \*\*\* AMERITEL INN ELKO, LLC; 30% INT. \*\*\* AMERITEL INN TWIN FALLS, LLC; 70% INT.

# Exhibit C



# Citizen Access Portal

Announcements Register for an Account Receipt/Reports (4) Login

Home Building Business License Civil Enforcement Engineering Events Fire Fix the Bricks Planning Property Management more

Check/Research Permits Schedule an Inspection

## Record BLD2018-06867:

Sign

Record Status: In For Review

Record Info Payments Conditions 1

A notice was added to this record on 12/03/2010.  
Condition: DRT Severity: Notice  
Total Conditions: 1 (Notice: 1)

[View Condition](#)

## Work Location

643 W 800 S  
Salt Lake City

## Record Details

### Applicant:

Mike J Helm  
YESCO Outdoor Media  
1605 South Gramercy Rd.  
Salt Lake City, UT, 84104  
Phone 1: (Work)801-464-6400  
Phone 2: (Mobile)801-464-6406  
mhelm@yesco.com

### Licensed Professional:

Paul C Young  
YESCO LLC  
2401 Foothill Dr  
Salt Lake City, UT, 84109  
Phone 1: (Work)8014644600  
PROFESSIONAL 7232280-5501

### Project Description:

YESCO billboard relocation  
PLEASE UPLOAD CONSTRUCTION DOCUMENTS TO  
PROJECTDOX FOR PLAN REVIEW. YESCO Outdoor Media  
currently has a billboard and valid UDOT permit  
(#2-0259) located at 643 S. 400 W. and is applying to  
relocate the sign and its associated permit to a new site at  
643 W. 800 S. on the north end of the property. UCA 10-  
9a-part 5 provides for the relocation of billboards within a  
municipality.

### Owner:

SALT LAKE FEAR FACTORY, L.L.C.  
1690 E 4620 S  
MILLCREEK UT 841175002

### More Details

#### Additional Information

Job Value(\$):  
\$65,000.00

#### Application Information

##### SIGN PERMIT

Proposed Square  
footage of each sign: 560

Height of proposed  
sign: 50

Projection over city  
property?: No

Is sign to be  
illuminated?: Yes

Use Type (Sign): New

Permit YESCO is applying to relocate a single face billboard and its associated permits currently located at 643 S. 400 W. to a new location per UCA 10-9a-511.

Details/Comments:  
Existing billboard: 560 sq. ft. single face



Proposed Square  
Footage - Sign Type:  
Project Dox: Yes

**Parcel Information**

**Parcel Number:**  
15-12-151-001-0000

**Land Use:**  
INDUSTRIAL

**Legal Description:**  
0530. BEG AT NE COR LOT 7, BLK 1, PLAT C, SLC SUR; S  
0°01'06" E. 660 FT; S 89°56'59" W 20 FT; N 26°35'23" W  
368.87 FT; N 20° 00'19" W 351.08 FT; N 89°56'59" E 305 FT  
TO BEG. 2.63 AC. 4156-0500 5404-2857 6214-1997 7177-  
2110 9336-0880. 09336-0881.

# Exhibit D

1/29/2019

Mail - Permit 2-0259



Mike Helm <mhelm@yesco.com>

---

## Permit 2-0259

---

Zachary Derr <zderr@utah.gov>

Wed, Jul 18, 2018 at 7:58 AM

To: Mike Helm <mhelm@yesco.com>, Krissy Plett <kplett@utah.gov>

Mike,

We need your help with some information about a sign. It appears that YESCO permit (2-0259) has no sign head. We have not seen any active permit application for alteration. The attached image from Road View Explorer shows the sign head missing since 9/8/2017.

Could you let us know your plans with this sign? We want to work with you on a solution to this. As you know, per the statute, you may completely remodel the sign structure as long as you do not make alterations to it. You also have 365 days until we consider the sign abandoned.

Please let us know your plans and hopefully we can work together on a solution for this.

Thanks,

Zach Derr



**Zach Derr**  
Statewide Permit Officer  
-Outdoor Advertising Control  
4501 South 2700 West, Box 148420  
Salt Lake City, Utah 84114-8420  
Ph: 801-448-1713  
Email: zderr@utah.gov  
Website: [www.udot.utah.gov/go/outdooradvertising](http://www.udot.utah.gov/go/outdooradvertising)

1/29/2019

Mail - Permit 2-0259

The information contained in this electronic mail message is confidential information intended only for the use of the individual or entity named above and may be privileged. If the reader of this message is not the intended recipient or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify me by reply to this message. Also, please delete the original message. Thank you.

# **Exhibit E**



# Citizen Access Portal

Announcements Register for an Account Receipt/Reports (4) Login

Search...

Home Building Business License Civil Enforcement Engineering Events Fire Fix the Bricks Planning Property Management more

Check/Research Permits Schedule an Inspection

## Record BLD2018-10067:

Sign

Record Status: In For Review

Record Info

Payments

Conditions 1

A notice was added to this record on 12/03/2010.  
Condition: DRT Severity: Notice  
Total Conditions: 1 (Notice: 1)

[View Condition](#)

## Work Location

643 W 800 S  
Salt Lake City

## Record Details

### Applicant:

Mike J Helm  
YESCO Outdoor Media  
1605 South Gramercy Rd.  
Salt Lake City, UT, 84104  
Phone 1: (Work)801-464-6400  
Phone 2: (Mobile)801-464-6406  
mhelm@yesco.com

### Licensed Professional:

Paul Young  
YESCO LLC  
2401 Foothill Dr  
Salt Lake City, UT, 84109  
Phone 1: (Work)8014644600  
PROFESSIONAL 7232280-5501

### Project Description:

YESCO 11003 rebuild  
YESCO is applying to rebuild an existing structure on the same parcel per UC 72-7-510.5 due to a safety measure obstruction made by UDOT that blocks the view and readability of the sign. UC 72-7-510.5 allows for the sign to be relocated/rebuilt within 500' of its prior location to a height and angle to make the entire advertising content of the sign clearly visible. The sign is double faced and each face is 672 sq.ft. and will remain the same.

### Owner:

SALT LAKE FEAR FACTORY, L.L.C.  
1690 E 4620 S  
MILLCREEK UT 841175002

### More Details

#### Additional Information

Job Value(\$):  
\$120,000.00

#### Application Information

##### SIGN PERMIT

Proposed Square footage of each sign: 672  
Height of proposed sign: 80  
Projection over city property?: No  
Is sign to be illuminated?: Yes  
Use Type (Sign): Replace  
Permit  
Details/Comments:

YESCO is applying to rebuild an existing structure on the same parcel per UC 72-7-510.5 due to a safety measure obstruction made by UDOT that blocks the view and readability of the sign. UC 72-7-510.5 allows for the sign to be relocated/rebuilt within 500' of its prior location to a height and angle to make the entire advertising content of the sign clearly visible. The sign is double faced and each face is 672 sq.ft. and will remain the same.

Proposed Square Footage - Sign Type: The sign is double faced and each face is 672 sq.ft. and will remain the same.  
Project Dox: Yes

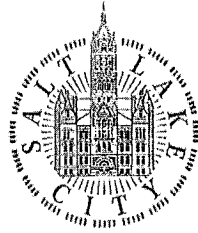
**Parcel Information**

**Parcel Number:** 15-12-151-001-0000  
**Land Use:** INDUSTRIAL

**Legal Description:**  
0530. BEG AT NE COR LOT 7, BLK 1, PLAT C, SLC SUR; S 0°01'06" E. 660 FT; S 89°56'59" W 20 FT; N 26°35'23" W 368.87 FT; N 20° 00'19" W 351.08 FT; N 89°56'59" E 305 FT TO BEG. 2.63 AC. 4156-0500 5404-2857 6214-1997 7177-2110 9336-0880. 09336-0881.

# **Exhibit F**





DEPARTMENT of COMMUNITY and NEIGHBORHOODS

JACKIE BISKUPSKI  
MAYOR

ORION GOFF  
DIRECTOR

**Initial ZONING PLAN REVIEW**

(Based on the Salt Lake City ordinance Title 21A)

**Date:** 12-03-18

**Log No:** BLD2018-10067

**Zoning District/Overlay:** CG

**Project Name:** Yesco 11003 Billboard Rebuild

**Address(es):** 643 W. 800 S.

**APPLICANT CONTACT INFORMATION:**

**Name(s):** Mike Helm

**Phone:** 801-464-6400 - 801-694-3086

**Email:** mhelm@yesco.com

**Reviewed by:** Greg Mikolash

**Phone:** 801-535-6181

**Email:** [Gregory.mikolash@slcgov.com](mailto:Gregory.mikolash@slcgov.com)

If you have any questions or comments, email is the preferred method of contact.

To discuss this review in person, please call or email a request for an appointment with your reviewer.

Permit and zoning information is available by visiting the Building Services and Civil Enforcement website at: <http://www.slcgov.com/building>

This building permit application at the above located address has been reviewed for compliance with the Salt Lake City zoning code. The comments below indicate that corrections, clarification or additional details are required.

**Zoning Review Comments:**

- 1) Since this billboard is not a simple rebuild/remodel and is a proposed *new* billboard located along the corridor of I-15, it is not allowed; therefore, if the existing billboard is taken down it shall not be replaced according to local law. The existing billboard would be able to be rebuilt at its current location but not moved/relocated on the same parcel.

This concludes our **initial** Zoning Review.

# Exhibit G

March 20, 2019

Salt Lake City Building Services  
P.O. Box 145471  
Salt Lake City, Utah 84114-5471

Re: YESCO 11018 Billboard Relocation, Log No: BLD2018-06867

Dear Building Services,

On July 11, 2018 YESCO Outdoor Media submitted an application to relocate billboard number 11018 (the "Billboard") from 643 S. 400 W., Salt Lake City to 643 W. 800 S., Salt Lake City. The Billboard was damaged in a windstorm on or about June of 2016 and YESCO sought to rebuild the Billboard in a new location as permitted by statute. As of March 18, 2019, there has been no action taken by the City to process YESCO's application.

In 2018, the Utah legislature created enhanced statutory protections for billboard owners and limited a municipality's ability to use its' ordinances to either deny or delay a billboard owner's ability to relocate a sign. Section 10-9a-513 (2)(b) states in relevant part that a billboard owner may:

- (i) *rebuild, maintain, repair, or restore a billboard structure that is damaged by casualty, an act of God, or vandalism; . . .*
- (iv) *relocate a billboard into any commercial, industrial, or manufacturing zone within the municipality's boundaries, if the relocated billboard is:*
  - (A) *within 5,280 feet of the billboard's previous location; and*
  - (B) *no closer than 300 feet from an off-premise sign existing on the same side of the street or highway, or if the street or highway is an interstate or limited access highway that is subject to Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the distances allowed under that act between the relocated billboard and an off-premises sign existing on the same side of the interstate or limited access highway; or*
- (v) *make one or more of the following modifications, as the billboard owners determines, to a billboard that is structurally altered by modification or upgrade under Subjection 2(b)(iii), be relocation under Subjection (2)(b)(iv), or by any combination of these alterations:*
  - (A) *erect the billboard;*
    - (I) *to the highest allowable height; and*
    - (II) *as the owner determines, to an angle that makes the entire advertising content of the billboard clearly visible. . . .*

866-779-8357

1605 South Gramercy Road  
Salt Lake City, UT 84104

yesco.com



---

Section 10-9a-513(2)(a) provides that if a Billboard owner makes a written request to relocate a billboard and the municipality fails to take action or commence an eminent domain proceeding to condemn the billboard within 180 days, the Billboard owner may "take the requested action, without further municipal land use approval."

More than 180 days have passed without approval or commencement of eminent domain proceedings by the City. Therefore, YESCO intends to proceed to relocate the Billboard without further land use approval, as it is entitled by Utah Code Ann. §10-9a-513(2)(a). If the City takes further action to deny YESCO's unambiguous relocation rights provided by the Municipal Land Use, Development, and Management Act, YESCO will consider any such action as a defacto taking, entitling it to just compensation for the loss of its rights. If you would like to discuss these matters, please contact me at 801-464-6406.

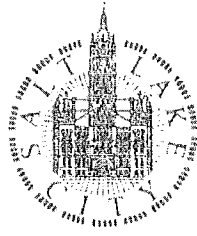
Regards,

A handwritten signature in black ink, appearing to read 'Mike Helm'.

Mike Helm  
YESCO Outdoor Media  
mhelm@yesco.com

# Exhibit H

JACQUELINE M. BISKUPSKI  
Mayor



DEPARTMENT of COMMUNITY  
and NEIGHBORHOODS  
PLANNING DIVISION

April 10, 2019

*Via E-mail*

Mike Helm  
YESCO Outdoor Media  
1605 South Gramercy Road  
Salt Lake City, UT 84104  
[mhelm@yesco.com](mailto:mhelm@yesco.com)

**Re: Request to Relocate Billboard, 643 South 400 West, BLD2018-06867**

Dear Mike:

We are in receipt of your letter dated March 20, 2019. The City acknowledges it received a request from YESCO in July 2018 to relocate a billboard pole that is currently located at 643 South 400 West (the "600 South Billboard") to approximately 643 West 800 South (the "Fear Factor Property"). However, this relocation application did not establish that YESCO has the right under Utah law to relocate the 600 South Billboard to the Fear Factor Property. The City notes that YESCO also owns a billboard located at the southern end of the Fear Factor Property. See Map attached hereto. If the 600 South Billboard is relocated to the Fear Factor Property it will result in two interstate facing billboards being within 500 feet of each other, which is not permitted by Utah Code. See Utah Code § 72-7-505(3)(a). As such, you do not have the right under state law to relocate the 600 South Billboard to the Fear Factor Property, unless the other billboard is removed.

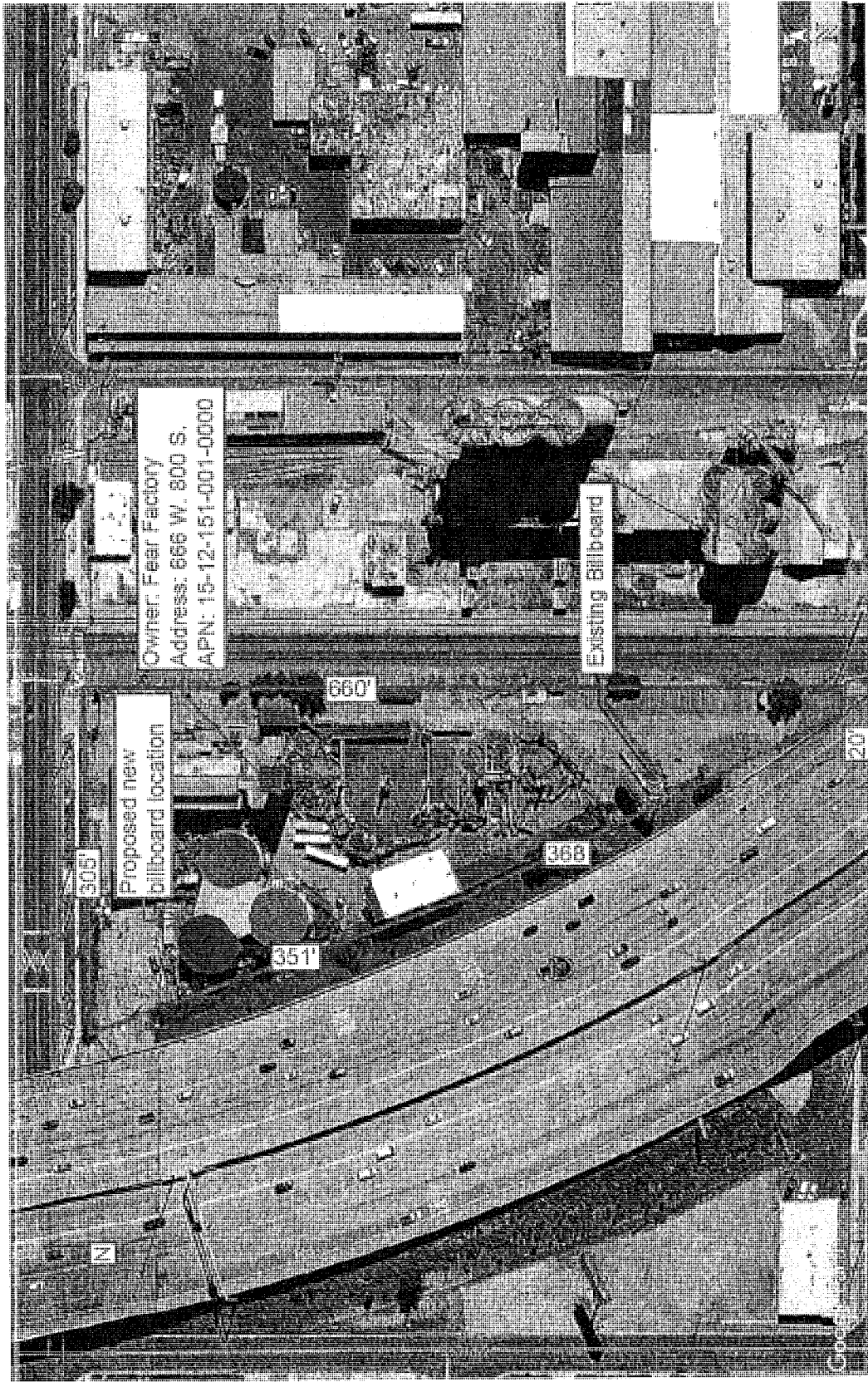
Sincerely,

A handwritten signature in black ink, appearing to read "Joel Paterson".

Joel Paterson  
Zoning Administrator  
Salt Lake City Corporation

Attachment

cc: Greg Mikolash, Salt Lake City Building Services  
Nick Norris, Salt Lake City Planning  
Doug Dansie, Salt Lake City Planning



Owner: Fear Factory  
Address: 666 W. 800 S.  
APN: 15-12-151-001-0000

Existing Billboard

Proposed new  
billboard location

305'

660'

368'

351'

20'

N

Copyright

# **Exhibit I**





## Outdoor Media

April 22, 2019

Joel Patterson  
Salt Lake City Zoning Administrator  
451 South State Street, Room 406  
Salt Lake City, Utah 84114-5480

Re: YESCO 11018 Billboard Relocation, Log No: BLD2018-06867

Dear Mr. Patterson,

I am in receipt of your letter dated April 10, 2019 addressing YESCO Outdoor Media's ("YESCO") application to relocate the billboard number 11018 (the "Billboard 11018") from 643 S. 400 W., Salt Lake City to 643 W. 800 S., Salt Lake City. Your letter indicates YESCO does not have the right to relocated Billboard 11018 because it does not meet the 500 foot spacing requirements between billboards on the Fear Factory Property.

As you may know, YESCO submitted an application to Salt Lake City on October 11, 2018 pursuant to Utah Code Ann. Sections 72-7-510.5 and 10-9a-513 (2)(b) to relocate Billboard 11003, Log No: BLD2018-10067, currently located on the Fear Factory Property. That relocation is permitted because a UDOT highway project impaired the clear visibility of the north face of Billboard 11003 by installing a high center median on I-15. "Clearly visible" is defined as meaning "capable to being read without obstruction by an occupant of a vehicle traveling on a street or highway within the visibility area." See Utah Code Ann. § 10-9a-513(1)(a). Because the Billboard is not clearly visible from "all lanes of traffic of the street or highway", YESCO is entitled to relocate it. See Utah Code Ann. § 10-9a-513(1)(f) (defining "visibility area").

By letter dated March 20, 2019, YESCO also addressed Salt Lake City's "Initial Zoning Plan Review" dated December 3, 2018 wherein Salt Lake City raised objections to YESCO's application to relocated Billboard 11003. Salt Lake City has failed to act on that permit application within the 180 days permitted by Utah law. See Utah Code Ann. §10-9a-513(2)(a) (providing that "may take the requested action, . . . 180 days after the day on which the billboard owner makes the written request . . ." unless municipality initiated eminent domain proceedings). Therefore, YESCO is entitled to proceed with the relocation of Billboard 11003 without further land use approval. Once Billboard 11003 is relocated, Billboard 11018 will meet all spacing requirements, Salt Lake City will have no further basis upon which to object to its relocation, and YESCO will be entitled to relocate Billboard 11018 without further approval.

866-779-8357

1605 South Gramercy Road  
Salt Lake City, UT 84104

yesco.com

YOM 00020



## Outdoor Media

---

If the City takes further action to deny YESCO's unambiguous relocation rights provided by the Municipal Land Use, Development, and Management Act, YESCO will consider any such action as a defacto taking, entitling it to just compensation for the loss of its rights. If you would like to discuss these matters, please contact me at 801-464-6406.

Regards,

A handwritten signature in black ink, appearing to read 'Mike Helm'.

Mike Helm  
YESCO Outdoor Media  
mhelm@yesco.com

cc: Michael Wardle, Esq.

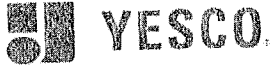
866-779-8357

1605 South Gramercy Road  
Salt Lake City, UT 84104

yesco.com

YOM 00021

# **Exhibit J**



June 24, 2019

**Via Email and U.S. Mail**

Joel Patterson  
Salt Lake City Zoning Administrator  
451 South State Street, Room 406  
Salt Lake City, Utah 84114-5480

*Re: Amendment and Updated Request to Relocate YESCO 11018 Billboard, Log No: BLD2018-06867*

Dear Mr. Patterson,

As you know, YESCO Outdoor Media ("YESCO") filed an application last year to relocate billboard number 11018 (the "Billboard 11018") from 643 S. 400 W. ("Current Location") to 643 W. 800 S. (the "Fear Factory Property"). On April 10, 2019 you wrote that Billboard 11018 could not be relocated to the Fear Factory Property because the proposed location does not meet the 500 foot spacing requirements between billboards on the Fear Factory Property. YESCO responded to your letter on or about April 22, 2019 and disputed the City's position.

After additional investigation and in order to avoid a dispute with Salt Lake City regarding this issue, YESCO has found a new location whereupon to relocate Billboard 11018. The new property is located at 342 W. 1300 S., Salt Lake City and is owned by Utah Capital Properties, LLC ("UCP Property"). The UCP Property is currently occupied by the Escape on 13<sup>th</sup> Escape Room. Inasmuch as the UCP Property is located in the municipal boundaries of Salt Lake City, within 5,280 of the Current Location, and was significantly damaged in a windstorm (an act of God), YESCO is entitled to rebuild and relocate Billboard 11018 to the UCP Property. See Utah Code Ann. §10-9a-513(2)(b). Consequently, YESCO hereby amends its prior application to relocate Billboard 11018 from the Current Location to the UCP Property. Please confirm as soon as possible that Salt Lake City will permit the relocation as requested. Given the significant time this application has been pending, YESCO intends to move quickly to effectuate the relocation as proposed.

If the City takes further action to deny or delay YESCO's unambiguous relocation rights, YESCO will consider any such action as a defacto taking, entitling it to just compensation for the loss of its rights. If you would like to discuss these matters, please contact me at 801-464-6406.

Regards,

Mike Helm  
YESCO Outdoor Media  
mhelm@yesco.com

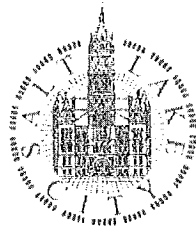
866-779-8357

1605 South Gramercy Road  
Salt Lake City, UT 84104

yesco.com

# **Exhibit K**

JACQUELINE M. BISKUPSKI  
Mayor



DEPARTMENT of COMMUNITY  
and NEIGHBORHOODS  
PLANNING DIVISION

July 18, 2019

**VIA Email and Registered Mail, Return Receipt Requested**

Mike Helm  
YESCO Outdoor Media  
1605 S. Gramercy Road  
Salt Lake City, Utah 84104

**Re: Response to Letter Dated June 24, 2019, Regarding Amendment and Updated Request to Relocate YESCO 11018 Billboard, Log. No. BLD2018-06867**

Dear Mr. Helm,

Salt Lake City Corporation (the "City") received your letter dated June 24, 2019, in which YESCO Outdoor Media ("YESCO") submitted a new request to relocate a billboard pole ("Existing Billboard") that is currently located at 643 S. 400 W. ("Current Location"). The City previously received, and denied YESCO's request to relocate the Existing Billboard from the Current Location to 643 W. 800 S.

In YESCO's letter dated June 24, 2019, it is now requesting to move the Existing Billboard from the Current Location to 342 W. 1300 S ("1300 S. Location"). As a preliminary matter, it appears that the 1300 S. Location may be more than 5,280 feet away from the Current Location, in which case the new relocation request is denied because it does not meet the requirements of Utah Code § 10-9a-513(2)(b)(iv).

In the event YESCO can show the 1300 S. Location is within 5,280 feet of the Current Location, the City nonetheless denies the relocation request. Under Utah Code § 10-9a-513(2)(b)(i) a billboard owner may "rebuild, maintain, repair, or restore a billboard structure that is damaged by casualty, an act of god, or vandalism." Under Utah Code § 10-9a-513(2)(b)(iv) a billboard owner may "relocate a billboard into any commercial, industrial, or manufacturing zone within the municipality's boundaries, if the relocated billboard is (A) within 5,280 feet of the billboard's previous location; and (B) no closer than 300 feet" to another billboard. These subsections are separated by the word "or," which means they are separate and distinct options and an application like YESCO's that attempts to combine both does not qualify and does not trigger the requirements of Utah Code § 10-9a-513(2)(a) and (d), including compensation for a denial.

Since YESCO claims the billboard was damaged by an act of god and is in need of repair, the City will consider a new application from YESCO that requests rebuilding the billboard at the Current Location, under Utah Code § 10-9a-513(2)(b)(i). But no application to relocate to the 1300 S. Location can be considered at this time because YESCO does not have an existing functioning billboard at the Current Location. If YESCO files a new application and rebuilds the Existing Billboard, the City will consider a new request to relocate under Utah Code § 10-9a-513(2)(b)(iv).

Finally, the City considers the Existing Billboard to have been abandoned for at least 12 months under Utah Code § 10-9a-513(3)(a)(ii)(C), because the structure has only been a pole, with no face or advertising of any kind, for over two years. Thus, this letter also serves as notice to YESCO under Utah Code 10-9a-513(3)(b) that the Existing Billboard is abandoned and YESCO must remedy the abandonment within 180 days after receipt of this letter or the City will require removal of the billboard.

For these reasons, YESCO's request to relocate the Existing Billboard to the 1300 S. Location is denied. Please feel free to contact me with questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Joel Paterson", written in a cursive style.

Joel Paterson  
Zoning Administrator  
Salt Lake City Corporation

cc: Patrick Leary, Chief of Staff  
Nick Norris, Salt Lake City Planning Director  
Doug Dansie, Senior Planner

# Exhibit L



**Effective 5/8/2018**

**10-9a-513 Municipality's acquisition of billboard by eminent domain -- Removal without providing compensation -- Limit on allowing nonconforming billboards to be rebuilt or replaced -- Validity of municipal permit after issuance of state permit.**

(1) As used in this section:

- (a) "Clearly visible" means capable of being read without obstruction by an occupant of a vehicle traveling on a street or highway within the visibility area.
- (b) "Highest allowable height" means:
  - (i) if the height allowed by the municipality, by ordinance or consent, is higher than the height under Subsection (1)(b)(ii), the height allowed by the municipality; or
  - (ii)
    - (A) for a noninterstate billboard:
      - (I) if the height of the previous use or structure is 45 feet or higher, the height of the previous use or structure; or
      - (II) if the height of the previous use or structure is less than 45 feet, the height of the previous use or structure or the height to make the entire advertising content of the billboard clearly visible, whichever is higher, but no higher than 45 feet; and
    - (B) for an interstate billboard:
      - (I) if the height of the previous use or structure is at or above the interstate height, the height of the previous use or structure; or
      - (II) if the height of the previous use or structure is less than the interstate height, the height of the previous use or structure or the height to make the entire advertising content of the billboard clearly visible, whichever is higher, but no higher than the interstate height.
- (c) "Interstate billboard" means a billboard that is intended to be viewed from a highway that is an interstate.
- (d) "Interstate height" means a height that is the higher of:
  - (i) 65 feet above the ground; and
  - (ii) 25 feet above the grade of the interstate.
- (e) "Noninterstate billboard" means a billboard that is intended to be viewed from a street or highway that is not an interstate.
- (f) "Visibility area" means the area on a street or highway that is:
  - (i) defined at one end by a line extending from the base of the billboard across all lanes of traffic of the street or highway in a plane that is perpendicular to the street or highway; and
  - (ii) defined on the other end by a line extending across all lanes of traffic of the street or highway in a plane that is:
    - (A) perpendicular to the street or highway; and
    - (B)
      - (I) for an interstate billboard, 500 feet from the base of the billboard; or
      - (II) for a noninterstate billboard, 300 feet from the base of the billboard.

(2)

- (a) If a billboard owner makes a written request to the municipality with jurisdiction over the billboard to take an action described in Subsection (2)(b), the billboard owner may take the requested action, without further municipal land use approval, 180 days after the day on which the billboard owner makes the written request, unless within the 180-day period the municipality:
  - (i) in an attempt to acquire the billboard and associated rights through eminent domain under Section 10-9a-512 for the purpose of terminating the billboard and associated rights:

- (f) If a municipality commences an eminent domain action under Subsection (2)(a)(i):
  - (i) the provisions of Section 78B-6-510 do not apply; and
  - (ii) the municipality may not take possession of the billboard or the billboard's associated rights until:
    - (A) completion of all appeals of a judgment allowing the municipality to acquire the billboard and associated rights; and
    - (B) the billboard owner receives payment of just compensation, described in Subsection (2)(e).
- (g) Unless the eminent domain action is dismissed under Subsection (2)(h)(ii), a billboard owner may proceed, without further municipal land use approval, to take an action requested under Subsection (2)(a), if the municipality's eminent domain action commenced under Subsection (2)(a)(i) is dismissed without an order allowing the municipality to acquire the billboard and associated rights.
- (h)
  - (i) A billboard owner may withdraw a request made under Subsection (2)(a) at any time before the municipality takes possession of the billboard or the billboard's associated rights in accordance with Subsection (2)(f)(ii).
  - (ii) If a billboard owner withdraws a request in accordance with Subsection (2)(h)(i), the court shall dismiss the municipality's eminent domain action to acquire the billboard or associated rights.
- (3) Notwithstanding Section 10-9a-512, a municipality may require the owner of a billboard to remove the billboard without acquiring the billboard and associated rights through eminent domain if:
  - (a) the municipality determines:
    - (i) by clear and convincing evidence that the applicant for a permit intentionally made a false or misleading statement in the applicant's application regarding the placement or erection of the billboard; or
    - (ii) by substantial evidence that the billboard:
      - (A) is structurally unsafe;
      - (B) is in an unreasonable state of repair; or
      - (C) has been abandoned for at least 12 months;
  - (b) the municipality notifies the billboard owner in writing that the billboard owner's billboard meets one or more of the conditions listed in Subsections (3)(a)(i) and (ii);
  - (c) the billboard owner fails to remedy the condition or conditions within:
    - (i) 180 days after the day on which the billboard owner receives written notice under Subsection (3)(b); or
    - (ii) if the condition forming the basis of the municipality's intention to remove the billboard is that it is structurally unsafe, 10 business days, or a longer period if necessary because of a natural disaster, after the day on which the billboard owner receives written notice under Subsection (3)(b); and
  - (d) following the expiration of the applicable period under Subsection (3)(c) and after providing the billboard owner with reasonable notice of proceedings and an opportunity for a hearing, the municipality finds:
    - (i) by clear and convincing evidence, that the applicant for a permit intentionally made a false or misleading statement in the application regarding the placement or erection of the billboard; or
    - (ii) by substantial evidence that the billboard is structurally unsafe, is in an unreasonable state of repair, or has been abandoned for at least 12 months.

# **Exhibit M**

FEB - 9 2016

SALT LAKE COUNTY

By \_\_\_\_\_ Deputy Clerk

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT  
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

OUTFRONT MEDIA, LLC, FKA CBS  
OUTDOOR,

Plaintiff,

v.

SALT LAKE CITY CORPORATION;  
CORNER PROPERTY, L.C.; AND UTAH  
OUTDOOR ADVERTISING, INC,

Defendants.

**RULING AND FINAL ORDER**

Case No. 160900413

Judge Todd M. Shaughnessy

Before the court is Plaintiff Outfront Media, LLC fka CBS Outdoor's ("CBS's") Motion for Summary Judgment/Trial Brief and Defendant Salt Lake City Corporation's (the "City's") Opposition to Motion for Summary Judgment/Trial Brief. A hearing was held on February 5, 2016. CBS was represented by Leslie Van Frank and Bradley Strassberg. The City was represented by Samantha J. Slark and Katherine N. Lewis. Defendant Corner Property, L.C. ("Corner Property") was represented by Jon Rodgers. After considering the briefing, argument of counsel, and relevant law, the court now rules as follows.

**BACKGROUND**

This case involves the City's denial of CBS's application to relocate its billboard along with its granting of Corner Property's application to relocate a billboard to an adjacent location. Prior to October 2014, CBS had a billboard located on property owned

by Corner Property at 726 West South Temple (“726 West”). Corner Property declined to renew CBS’s lease and, on October 20, 2014, CBS submitted to the City an application pursuant to Utah Code section 72-7-510.5 to relocate its billboard less than 50 feet away to 738 West South Temple (“738 West”) and to increase the height of the billboard.<sup>1</sup>

In November 2014, CBS removed its billboard at 726 West when the 90-day grace period under its lease at that location expired. On December 4, 2014, the City denied CBS’s application on the grounds that section 72-7-510.5 does not allow a billboard to be both relocated *and* increased in height. CBS tried initially to take an administrative appeal of this decision but the City took the position that CBS had no administrative appeal right. CBS therefore appealed to Third District Court (*see* Case No. 150900004). On August 18, 2015, the District Court affirmed the City’s decision finding that CBS did not have the right to both relocate and raise the height of a billboard in the same permit under section 72-7-510.5.<sup>2</sup>

---

<sup>1</sup> CBS invoked section 72-7-510.5 as grounds for its relocation request and the City treated it as an application brought pursuant to that section of the Code. That section, which addresses changes to non-conforming billboards necessitated by construction on an adjacent highway, has no obvious application here since the purported changes to the freeway had been made some time ago and apparently addressed through prior changes to the sign. Nonetheless, the City treated it as having been brought pursuant to this section and addressed it in that context.

<sup>2</sup> Before disposition, the City filed a motion to dismiss for lack of subject matter jurisdiction, arguing that the permit denial was based on state law and not subject to review either before the Hearing Officer or the district court pursuant to Utah Code section 10-9a-707 and -801. The Court rejected this argument and concluded that any

At the City's invitation, CBS filed a new application to relocate to 738 West, this time pursuant to Utah Code section 10-9a-511(3)(c)(i) ("Section 511"). While CBS's prior application was being litigated, Corner Property had likewise applied to the City to relocate to the 726 West location vacated by CBS a different billboard that it owned located at 280 West 500 South ("500 South"). Section 72-7-505(3) of the Code requires that billboards adjacent to interstate highways be at least 500 feet from each other, and the City cannot waive this requirement. Because the 726 West and 738 West locations are less than 500 feet apart, the City can grant only one of the relocation applications. Additionally, 726 West, 738 West, and 500 South are all within "gateways"<sup>3</sup> meaning that, under the Salt Lake City Code ("City Code"), new billboards are prohibited. City Code § 21A.46.160.N.<sup>4</sup> Because they are prohibited by City Ordinance, a billboard could

---

interpretation of state law by the City was made in conjunction with its authority under City Code Title 21A, which was authorized by the Utah Legislature in Title 10, chapter 9a of the Utah Code. Thus the decision by a City based on state law is appealable to the district court under section 10-9a-801. *See Order Denying Motion to Dismiss, Outfront Media, LLC f/k/a CBS Outdoor v. Salt Lake City Corporation*, case no. 150900004 (April 15, 2015).

<sup>3</sup> A "gateway" is defined by ordinance and includes Interstate 15 and 500 South from Interstate 15 to 700 East. *See City Code § 21A.46.160(B)*.

<sup>4</sup> When referenced generally, Section 21A.46.160 will be referred to as the "Billboard Ordinance."

be relocated here only if permitted under state law, hence both parties' invocation of Section 511. Section 511 allows municipalities to waive local zoning ordinances and permit the relocation of billboards. Section 513 which follows and is part of the same Act *requires* cities to relocate billboards to new locations if certain conditions are satisfied and, if the City declines to do so, it must pay the applicant just compensation for the condemnation of the billboard.

On November 25, 2015, the City denied CBS's application because of the prohibition of constructing new billboards within a gateway. *See* City Code § 21A.46.160.N. The City also declined to waive this prohibition under Section 511. On the same day, the City granted Corner Property's application to relocate to the 726 West location, electing to waive under Section 511 the City's prohibition against relocating billboards in a gateway. The decision was made by Mayor Becker in his capacity as the chief of the executive branch of City government. The Mayor granted Corner Property's application, and denied CBS's, because the end result would be the permanent removal of a billboard on 500 South with its replacement being constructed in the spot on 1-15 where CBS's billboard previously stood. Thus, the net effect, from the Mayor's point of view, was the elimination of one billboard in the City which he regarded as consistent with City policy.

CBS appealed, this time through the City's administrative hearing process and review before the City's designated Hearing Officer.<sup>5</sup> On January 15, 2016, the Hearing Officer issued an opinion upholding the City's decision to grant Corner Property's application for a permit and to deny CBS's application for a permit. CBS filed the present action on January 19, 2016, seeking a temporary restraining order and preliminary injunction preventing the City from effectuating any permit to Corner Property and seeking review of the Hearing Officer's decision to uphold the City's decision regarding Corner Property's and CBS's respective permits. A hearing on the temporary restraining order was held January 22, 2016. By stipulation of the parties and pursuant to Rule 65A of the Utah Rules of Civil Procedure, the court accelerated "the trial of the action on the merits ... with the hearing of the application." That hearing/trial was held February 5, 2016.

### ANALYSIS

CBS filed this appeal pursuant to Utah Code section 10-9a-801, seeking review of the Hearing Officer's decision to affirm the City's denial of CBS's permit and grant of

---

<sup>5</sup> Prior to appealing to the Hearing Officer, CBS filed a complaint with the Third District Court, Case No. 150908396, seeking a declaratory judgment with respect to its rights to receive a permit and also requesting entry of a restraining order precluding the City from taking any further action with respect to the permitting of Corner Property's billboard pending resolution of the action. At the hearing on the motion for temporary restraining order, CBS stated that it was now pursuing an appeal through the City's administrative hearing process, rendering the action before the district court moot. The court dismissed the case without prejudice.



Corner Property's permit. CBS contends that the Hearing Officer applied the incorrect standard of review, making his affirmation of the City's decision arbitrary, capricious, and illegal. CBS argues that such a finding requires the court to reverse the decision of the Hearing Officer, grant CBS's permit, and deny Corner Property's permit; or, alternatively, remand the case back to the City for further proceedings.

When reviewing a final decision of a land use authority or an appeal authority, the court will uphold the decision unless it is "arbitrary, capricious, or illegal." Utah Code § 10-9a-801(3)(a); *Bradley v. Payson City Corp.*, 2003 UT 16, ¶ 10, 70 P.3d 47. A decision by the land use authority or the appeal authority is illegal if "the decision ... violates a law, statute, or ordinance in effect at the time the decision was made." Utah Code § 10-9a-801(3)(d). A decision made pursuant to the authority's administrative or quasi-judicial power is arbitrary and capricious when the decision is not supported by "substantial evidence." *Bradley*, 2003 UT 16, ¶10.

Before the Hearing Officer were two distinct decisions made by the City: (1) the decision to "deny" both CBS's and Corner Property's applications due to the City's prohibition on relocating any billboard within a gateway as required by City Code 21A.46.160.N; and (2) the decision to waive that prohibition for Corner Property pursuant to Section 511 (and to decline to waive it for CBS). The Hearing Officer is the designated appeal authority and the officer's authority is limited to considering applications of land use ordinances. *See* Utah Code § 10-9a-707(4) ("Only those decisions in which a land use authority has applied a land use ordinance to a particular

application, person, or parcel may be appealed to an appeal authority.”); City Code § 21A.16.010 (authority of Hearing Officer). The Hearing Officer does not have authority to determine, on a de novo or any other basis, whether the City’s decisions were correct under State law. That determination is left to the district court. *See* Utah Code § 10-9a-801(2)(a) (“Any person adversely affect by a final decision made in the exercise of or in violation of the provisions of this chapter may file a petition for review of the decision with the district court . . . .”). To the extent that the Hearing Officer considered the City’s application of state law – that is the City’s decision to waive (or not waive) the City Code’s prohibition on billboard relocation pursuant to Section 511 – the court will disregard the Hearing Officer’s decision and instead review the Mayor’s decision as if had been appealed directly pursuant to section 10-9a-801(2)(a), applying the arbitrary, capricious, or illegal standard of section 10-9a-801(3)(a). Insofar as the Hearing Officer considered or applied City Ordinance, the court will review the Hearing Officer’s decision under the same standard.

According to City Code 21A.46.160.N, “[n]o new billboard may be constructed within six hundred feet (600’) of the right of way of any gateway.” Both CBS’s and Corner Property’s applications were for relocation within six hundred feet of Interstate 15, a gateway defined by City Code 21A.46.160.B. To grant either application to relocate, the City would have to waive the prohibition in its ordinance according to the authority in Section 511. Section 511 states: “Notwithstanding a prohibition in its zoning ordinance, a municipality may permit a billboard owner to relocate the billboard

within the municipality's boundaries to a location that is mutually acceptable to the municipality and the billboard owner." Utah Code § 10-9a-511(3)(c)(i). Under this statute, a billboard owner desiring to relocate a billboard must identify and propose an alternative location and then attempt to reach agreement with the city. If the municipality and the billboard owner do not reach an agreement "within 90 days after the owner submits a written request to relocate the billboard, the provisions of Subsection 10-9a-513(2)(a)(iv) apply." Utah Code § 10-9a-511(3)(c)(ii).

Subsection 10-9a-513(2)(a)(iv) ("Section 513") states, in pertinent part:

A municipality is considered to have initiated the acquisition of a billboard structure by eminent domain if the municipality prevents a billboard owner from:

....

(iv) relocating a billboard into any commercial, industrial, or manufacturing zone within the municipality's boundaries, if

(A) the relocated billboard is:

(I) within 5,280 feet of its previous location;

and

(II) no closer than:

....

(Bb)[the distance allowed by the Utah Outdoor Advertising Act between relocated signs and a pre-existing off-premise sign].

Section 511 grants complete discretion to the municipality to decide whether to waive its ordinances and permit an applicant to relocate its billboard. If the municipality declines to waive its ordinances, and the billboard owner has proposed a location and meets the various criteria in Section 513, then the municipality "is considered to have initiated the acquisition of a billboard structure by eminent domain," *id.* § 513(2)(a), and

must pay the billboard owner “just compensation.” So, as a general proposition, a municipality is perfectly free to deny a request to relocate a billboard under Sections 511 and 513, so long as it is willing to pay just compensation if the owner has satisfied the various requirements of Section 513. CBS does not and cannot dispute this. However, CBS maintains that if the municipality decides to deny the application, and thereby condemns the billboard, that decision can only be made by the municipality’s legislative branch. And here, because the Mayor and not the City Council made the decision, it is “illegal” and must be reversed. The City, on the other hand, maintains that the Mayor has the authority to exercise the discretion granted by Section 511 and that formal condemnation proceedings are not required prior to denying the application under Section 511.

As a general rule, the decision to waive or otherwise not enforce a zoning ordinance falls within the executive, administrative power. *See Scherbel v. Salt Lake City Corp.*, 758 P.2d 897, 899 (Utah 1988) (“Legislative power, as distinguished from executive power, is the authority to make laws, but not to enforce them or appoint the agents charged with the duty to make such enforcement. The latter are executive functions.”). The Mayor, as the chief executive officer, has administrative authority to enforce City ordinances, including zoning and land use ordinances. No authority from the City Council is required for the Mayor to do so.

CBS argues that relocation applications under Sections 511-513 are unique because the denial of them amounts to a taking and imposes a financial obligation on

the City. This fiscal function, according to CBS, is reserved to the City Council not the Mayor. Moreover, the condemnation provisions of Utah's Eminent Domain statutes require that the legislative body for a municipality take various steps and approve any condemnation of property by a municipality. *See* Utah Code § 78B-6-504(2) (granting authority to take property in the legislative body, which, in this case, is the City Council).

When interpreting statutory provisions, if the meaning of the statute can be discerned from its language, no other interpretive tools are needed. *See Nelson v. Salt Lake Cnty.*, 905 P.2d 872, 875 (Utah 1995) ("When language is clear and unambiguous, it must be held to mean what it expresses, and no room is left for construction."). "But when statutory language is ambiguous—in that its terms remain susceptible to two or more reasonable interpretations after we have conducted a plain language analysis—we generally resort to other modes of statutory construction." *Marion Energy, Inc. v. KFJ Ranch Partnership*, 2011 UT 50, ¶ 15, 267 P.3d 863. "[W]here two statutes treat the same subject matter, and one statute is general while the other is specific, the specific provision controls." *Floyd v. Western Surgical Assocs.*, 773 P.2d 401, 404 (Utah Ct. App. 1989). In the eminent domain context, Utah courts must strictly construe the statutory language granting the power of eminent domain in favor of the property owner and against the condemning party. *Id.* ¶ 16; *see also Bertagnoli v. Baker*, 215 P.2d 626, 628 (Utah 1950) ("The right of eminent domain, being in derogation of the rights of

individual ownership in property, has been strictly construed by the courts so that no person will be wrongfully deprived of the use and enjoyment of his property.”)

The Eminent Domain statute permits the government to take private property for a public purpose so long as just compensation is paid to the owner. Traditionally, eminent domain proceedings arose from rights vested in land and has expanded to included interests related to land, such as mineral rights, water rights, and other real property uses listed in section 78B-6-501. Billboards, as personal property, do not fall within the purview of eminent domain unless provided for by statute. *See* Utah Code § 78B-6-503 (including a catch all for eminent domain proceedings for “all classes of private property not enumerated if the taking is authorized by law.”). In the absence of any further guidance, the court might be inclined to conclude that the Eminent Domain statute governs when a city must pay just compensation after refusing to relocate a billboard.

However, the very statutes that require a municipality to pay just compensation in this context establish the governing standards for such a proceeding. If a Section 511 relocation request is denied, and the billboard owner meets the standards set forth in Section 513, then with the denial “the municipality is considered to have initiated the acquisition of a billboard structure by eminent domain...” Utah Code § 10-9a-513(2)(a). The language of part (2)(d) parallels the language in part (2)(a): the term “initiated” is used in both clauses. Read together, the court concludes that once a relocation permit requested under Section 511 is denied, and the applicant shows he meets the standards

of Section 513, the City is deemed, by statute, to have “initiated the acquisition of a billboard structure.” Upon such an initiation, the City must pay just compensation in accordance with Section 513(2)(d). These statutes, on their face, do not contemplate the inclusion of the additional procedures required by the Eminent Domain statutes. Indeed, if the legislature had intended parties to follow eminent domain procedures, it could easily have inserted a cross-reference in Section 513, as it has done elsewhere.<sup>6</sup> Here, the specific provisions of Section 513 govern these circumstances not the more general Eminent Domain statutes. In fact, the eminent domain statute includes various procedures that must be undertaken and findings that must be made which make no sense in the context of condemning a billboard, and would be difficult or impossible to satisfy, as the City correctly points out in its papers.<sup>7</sup> The eminent domain statutes do

---

<sup>6</sup> The court is aware that at least one other judge of this court has been presented with a question concerning application of the Eminent Domain statutes to billboards. In *Salt Lake City Corp. v. ROA General, Inc.*, Judge Faust granted a billboard company’s motion to dismiss a claim brought by Salt Lake City on the grounds that the various prerequisites for an Eminent Domain action had not been satisfied. That case, however, was brought under the provisions of the Outdoor Advertising Act in Title 72, Utah Code Ann. § 72-7-501 to -516. This act, unlike the Municipal Code under which this action has been brought, incorporates by reference the Eminent Domain statutes. *See, e.g., id.* § 72-7-510(2)(c). The City also points out that legislation recently was proposed to amend Section 513 and expressly incorporate the Eminent Domain statute to make it consistent with the Outdoor Advertising Act. That legislation did not pass. Thus, Judge Faust’s ruling in that case has no direct bearing on the answer to the question presented here. Judge Faust’s ruling currently is on appeal to the Utah Court of Appeals.

<sup>7</sup> For example, the Eminent Domain statute requires an appraisal prior to initiation of negotiations with the property owner. Utah Code § 78B-6-505; Utah Code

not apply so the failure of the City Council to comply with them is irrelevant and does not render the Mayor's decision illegal.

CBS next argues that the Mayor was required to deny Corner Property's application, and grant CBS's, because the City's Billboard Ordinance requires a billboard to be relocated if denying the request would result in condemnation. CBS claims that City Code 21A.46.160.CC evidences the City Council's determination that relocation must be granted if the result of not doing so is condemnation. Section 21A.46.160.CC states: "Except as otherwise authorized herein, existing billboards may not be relocated except as mandated by the requirements of Utah State law." According to CBS, this language amounts to a fiscal directive to the executive branch that condemnation of billboards be avoided at all costs.

When determining the meaning of a city ordinance, this court will review the local agency's interpretation for correctness but afford "some level of non-binding deference to the interpretation advanced by the local agency." *M & S Cox Inv., LLC v. Provo City Corp.*, 2007 UT App 315, ¶¶ 29-30, 169 P.3d 789. "[I]n close cases [the agency's] interpretation may be a determinative factor in choosing a particular interpretation over another." *Id.*

---

§ 57-12-13-(2). But unlike a parcel of real property, the appraiser is prohibited, by statute, from valuing the billboard based on its size, geographic setting, and comparable properties. Rather, billboards are valued based on annual revenue generated by the particular billboard at issue, which must be supplied by the billboard owner. Utah Code § 10-9a-513(2)(d)(i).



City Code 21A.46.160.CC—which is the concluding section of the City’s Billboard Ordinance—plainly expresses the City’s intent that the various requirements of the City’s Billboard Ordinances control and that billboards not be relocated except as permitted by the ordinance, or as may be mandated by state law. There is nothing in the ordinance to suggest it is concerned with the fiscal impact of condemning billboards and nothing that prohibits the City from choosing to condemn a billboard and pay just compensation if it prefers that result to relocation.<sup>8</sup> Additionally, even if this ordinance could somehow be read this way, Section 511 specifically allows the City to waive any provision of its ordinances in order to permit relocation and there is no reason the City could not waive this provision of the Billboard Ordinance. *See* Utah Code § 10-9a-511(3)(c)(i) (“Notwithstanding a prohibition in its zoning ordinance, a municipality may permit a billboard owner to relocate . . .”).

Because the Eminent Domain statutes and City Ordinance do not apply, and because CBS cites no other authority to support its argument that the Mayor lacked authority to deny its application, the court concludes that the Mayor had the authority to deny CBS’s permit and, likewise, to grant CBS’s application. The City’s actions in

---

<sup>8</sup> Under the City’s Billboard Ordinance, if relocation is denied, the billboard owner can bank billboard credits and find a mutually agreeable location to establish a new billboard. And denial of a permit does not require condemnation in every instance. For those owners that do not meet any of the exceptions of Section 513 and who do not use their billboard credits within three years, they have lost the revenue generated by the billboard and the City is not liable for that loss.

this regard were not illegal and this is not a basis upon which this court can reverse those decisions.

The City's decision also is not arbitrary and capricious because there is substantial evidence, or at least a facially valid explanation, for why the Mayor chose to deny CBS's application and grant Corner Property's application. First, there is support for the City's argument that it has adopted a firm policy stance against the proliferation of billboards. The City's Billboard Ordinance itself states its purpose is to "limit the maximum number of billboards in Salt Lake City to no greater than the current number." City Code § 21A.46.160.A. CBS argues that this does not reflect a policy statement in favor of reducing the number of billboards' rather it seeks to retain the same number and no more. This is splitting hairs. The phrase "no greater than the current number" can mean the same number of billboards as before; it can just as easily mean the same *or less*. The latter seems a particularly plausible reading since the Billboard Policy itself states that it is designed to "promote the enhancement of the city's gateways, views, vistas." *Id.* Additionally, the Billboard Ordinance creates the billboard banking system whereby a billboard owner banks "billboard credits" when a billboard is demolished in a gateway that can be used to construct a new billboard in a non-gateway area within three years. *See* City Code § 21A.46.160.G. This system has the effect of reducing the number of billboards because the billboard owner is not always able to find a new location and redeem the billboard credits before they expire. Second, Mayor Becker himself clearly had a policy of reducing the number of billboards within

the City when the opportunity arises, as evidenced by his 2013 State of the City address. Third, the City has in the past denied applications to relocate even though the denial results in condemnation. *See, e.g., Salt Lake City v. Reagan Outdoor Advertising et al.*, Case No. 100910552. Therefore, the Mayor's decision to deny CBS's permit, and grant Corner Property's permit—the net effect of which is to reduce the number of billboards in the City by one—is not arbitrary or capricious.<sup>9</sup>

CBS challenges the City's decision to grant Corner Property's relocation application and also, at the same time, allow Corner Property to increase the height and square footage of its billboard. As discussed above, Section 511 permits waiver of the City's Billboard Ordinances when the relocation is "mutually agreeable." Relocation under Section 511 is not limited by any requirement that the relocation be within a certain distance, that the new billboard be at a certain height, or that the new billboard have the same square footage. Utah Code § 10-9a-511(3)(c)(i). Under Section 511, a billboard owner may submit a relocation application requesting any relocation it desires

---

<sup>9</sup> CBS makes one final argument, alleging that the City's approval of Corner Property's application violates the legal principal "first in time, superior in right." It is not entirely clear that CBS was the first to file in this case because its Section 511 application, while an amendment to an earlier application, was filed after Corner Property's Section 511 application. Additionally, CBS has not cited authority establishing that the City is required to follow a "first in time, superior in right" rule, which would make the decision illegal, or that that City has followed such a rule in the past and did not follow it here, which could make the decision not to follow that rule here arbitrary and capricious.

including size and height adjustments. Approval under Section 511 is contingent upon the City and the billboard owner reaching a mutually agreeable decision regarding the new location of the billboard. The fact that CBS previously sought relocation under an entirely different statute that, on its face, does prohibit relocation and a height adjustment at the same time does not affect the City's decision in this case to allow relocation and a height and size adjustment in this context.<sup>10</sup> Apparent "illegality" or lack of proper permitting does not preclude relocation. Rather, the law requires that illegally constructed billboards be prohibited when it is shown by "clear and convincing evidence" that the applicant made "false and misleading" statements regarding its permit application. *See* Utah Code § 10-9a-513(a)-(d); *see also id.* § 10-9a-513(2)(c) (same). Additionally, Section 511 permits the City to waive the Billboard Ordinance's prohibition on sign height. The City is allowed to grant a permit of any height if the "view or readability" is obstructed by certain improvements on an interstate highway. Utah Code § 72-7-510.5. In fact, CBS's predecessor applied to raise the height of its prior sign at the 726 West location because a UDOT improvement blocked its billboard. Corner Property convinced the City that its billboard at the 726 West location needed to

---

<sup>10</sup> CBS previously sought relocation and a height adjustment pursuant to Utah Code section 72-7-510.5. The district court determined that this section provides two distinct options to restore the view and readability of a billboard obstructed by UDOT improvements: move the billboard or raise its height. *See* Order of Dismissal, *Outfront Media, LLC f/k/a CBS Outdoor v. Salt Lake City Corporation*, case no. 150900004 (Sept. 14, 2015).

be 85 feet high. The City agreed and issued a permit in accordance with Section 511. This decision is supported by substantial evidence and is not arbitrary, capricious, or illegal.

**ORDER AND JUDGMENT**

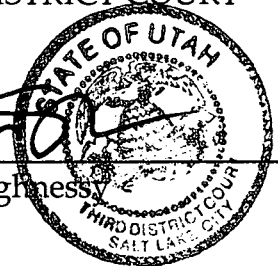
Based on the foregoing, the decisions by the City are affirmed. The court's interim order dated January 28, 2016, is hereby vacated. Final judgment is entered in favor of the City and Corner Property and the case is dismissed.

DATED this 8th day of February 2016.

THIRD JUDICIAL DISTRICT COURT



Judge Todd M. Shaughnessy



CERTIFICATE OF NOTIFICATION

I certify that a copy of the attached document was sent to the following people for case 160900413 by the method and on the date specified.

EMAIL: KATHERINE N LEWIS katherine.lewis@slcgov.com

EMAIL: JON H ROGERS rogersconsumerlaw@gmail.com

EMAIL: SAMANTHA J SLARK samantha.slark@slcgov.com

EMAIL: BRADLEY M STRASSBERG bstrassberg@cohnekinghorn.com

EMAIL: LESLIE VAN FRANK lvanfrank@cohnekinghorn.com

02/08/2016

/s/ MARK PARADISE

Date: \_\_\_\_\_

\_\_\_\_\_

Deputy Court Clerk

# **Exhibit N**



**IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR  
SALT LAKE COUNTY, STATE OF UTAH**

OUTFRONT MEDIA LLC f/k/a CBS  
OUTDOOR,

Plaintiff,

v.

SALT LAKE CITY CORPORATION,

Defendant.

**ORDER OF DISMISSAL**

Case No: 150900004

Hon. Mark Kouris

The parties cross motions for summary judgment came on for hearing before the Court on August 18, 2015 at 1:30 p.m. Plaintiff Outfront Media, LLC f/k/a CBS Outdoor (“CBS”) was represented by Leslie Van Frank and Bradley Strassberg of Cohne Kinghorn. Defendant Salt Lake City Corporation (the “City”) was represented by Samantha J. Slark of the Salt Lake City Attorney’s Office. The Court having reviewed the motions submitted by the parties and having heard oral argument of counsel on the same, rules as follows:

**FINDINGS OF FACT**

1. CBS owned a billboard that was located at 726 West South Temple, Salt Lake City, Utah.
2. On October 20, 2014, CBS submitted an application to the City requesting permits to allow CBS to move the billboard from its current location to 738 West South Temple and to increase the height of the billboard at the new location from 86 feet to 116 feet.
3. CBS claimed Utah Code § 72-7-510.5 permitted the requested move and increase



in height.

4. Utah Code section 72-7-510.5 states in pertinent part:

If the view and readability of an outdoor advertising sign . . . is obstructed due to a noise abatement or safety measure, grade change, construction, directional sign, highway widening, or aesthetic improvement made by an agency of this state, along an interstate [ ], the owner of the sign may:

(a) adjust the height of the sign; or

(b) relocate the sign to a point within 500 feet of its prior location, if the sign complies with the spacing requirements under Section 72-7-505 and is in a commercial or industrial zone.

5. On October 29, 2014, the City Attorney's Office sent CBS a letter stating that it "cannot determine whether" the billboard was obstructed, but stating that even if it was, CBS was only entitled to increase the height of the billboard at the current location or relocate the billboard, but not both.

6. The letter concluded by inviting CBS to submit a revised request that selected just one option.

7. CBS disputed that Utah Code § 72-7-510.5 limited it to either moving the billboard within 500 feet or increasing its height at the current location and chose not to submit a new or amended application.

8. On December 4, 2014, the City denied CBS's application.

9. The City provided two reasons for its denial.

10. First, it stated that the view and readability of the billboard were not obstructed by

the chain link fence and directional sign, stating that CBS's predecessor had increased the height of the billboard in 2003 pursuant to a permit that was issued by UDOT to "restore [the billboard's] view and readability." The City claims the chain link fence and directional signs CBS complains of were in place at that time.

11. Second, the City stated that even if the view and readability of the billboard were obstructed by the chain link fence and directional signs, Utah Code § 72-7-510.5 does not permit a billboard owner to both relocate and increase the height of the billboard.

12. The City again invited CBS to submit a modified application seeking just one option.

13. CBS sought judicial review of the City's decision.

14. The parties filed cross motions for summary judgment.

### **CONCLUSIONS OF LAW**

The Court concludes that the City's interpretation of the statute is correct. The plain language of Utah Code § 72-7-510.5 does not permit CBS to both move an obstructed billboard within 500 feet of its original location and increase the height. Subsection (1)(a) giving a right to increase the height of an obstructed billboard at its current location and subsection (1)(b) giving a right to relocate an obstructed billboard within 500 feet of its current location are separated by the word "or." When used in a statute the word "or" is a disjunctive and means one of two or more options. The Court is not persuaded by CBS's argument that "or" should be read as "and/or."

The Court is also not persuaded by CBS's argument that the word "relocate" as defined in the statute includes the right to increase the height of an obstructed billboard at a new location.

The use of the word “or” indicates a distinction between a “height adjusted” billboard under subsection (1)(a) and a “relocated” billboard under subsection (1)(b). The Court finds that the right to relocate a billboard under subsection (1)(b) does not include the right to increase the height for the additional reason that the Utah Outdoor Advertising Act regulates the height of billboards. Section 505 limits the height of billboards to 25 feet or, where located in a municipality, the maximum height permitted by the municipality or in the absence of municipal regulation 65 feet above the ground or 25 feet above the grade of the main travelled way. Section 510.5 expressly states that the provisions of 510.5 that relate to “height adjusted” billboards are an exception to these height requirements.

Because CBS did not submit an application that requested a remedy permitted by Utah Code § 72-7-510.5, the Court finds it does not need to reach the question of whether the billboard was obstructed as defined by that statute.

Salt Lake City’s Motion for Summary Judgment is GRANTED. CBS’s Motion for Summary Judgment is DENIED. Judgment is entered for the City and the case is dismissed with prejudice.

This Order constitutes a final, appealable order.

-----**END OF ORDER**-----

**[See top of Page 1 for Court Signature and Filing Date]**

APPROVED AS TO FORM:

          /s/          Leslie Van Frank            
Leslie Van Frank  
Attorneys for Outfront Media, LLC d/b/a CBS Outdoor

## ATTACHMENT D: Photos & Maps

---

## Existing Billboard Pole



Existing billboard pole at approximately 643 S 400 West. View from 600 S looking south-east

# Proposed Relocation



Proposed relocation site. View from 1300 S looking north-west.