



# SAN FRANCISCO PLANNING DEPARTMENT

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## **GENERAL ADVERTISING SIGN INVENTORY AND ENFORCEMENT PROGRAM 2008 ANNUAL REPORT**

The Planning Department's General Advertising Sign Inventory and Enforcement Program is the result of legislation passed in 2006 (Ordinance 140-06, adopted June 22, 2006 and Ordinance 200-06, adopted July 21, 2006) that amended the Planning Code to provide for improved monitoring and enforcement of general advertising signs. The primary goals of the program are to build and maintain an inventory of all general advertising signs in San Francisco, to correct outstanding sign violations, and to remove unlawful signs. A chronology of major sign legislation is shown in Appendix A.

Planning Code Section 604.2(h) requires that the Planning Department submit to the Planning Commission and the Board of Supervisors an annual report on the program that includes: (i) annual revenues from the inventory processing fee, annual inventory maintenance fee, in-lieu application fee, and the relocation agreement application fee, (ii) annual expenditures for the sign inventory program, and (iii) a progress report on the number of general advertising signs verified in the sign inventory; in-lieu requests; and code enforcement actions for general advertising signs processing, backlog, and abatement actions.

### **Annual Revenues**

In FY2007, the program generated \$586,849 in revenue. The vast majority of funding was from the inventory processing fee<sup>1</sup>, which was set to support the entire cost of the development and execution of the field survey. Late fees were charged to sign companies who did not comply within the deadline. An additional \$54,393 was paid into the program as part of a pre-litigation settlement with Turner Broadcasting.

In FY2008, as of February 21, 2008, fees and penalties generated \$138,554 in revenue. This includes \$70,560 from additional inventory submittals, and \$53,568 from the annual inventory maintenance fee<sup>2</sup>. The annual fee was established to support a .5 Planner III position for maintaining an up-to-date and accurate inventory. An additional \$6,800 was

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<sup>1</sup> Planning Code Section 358 establishes inventory processing fees of \$320 per sign for those submitted previously to the Department as an in-lieu application and \$560 per sign for all other signs.

<sup>2</sup> Planning Code Section 358 establishes an inventory maintenance fee of \$48 per sign.

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generated from two requests for reconsideration and the remaining \$7,626 from late fees and penalties. The following table provides a breakdown of revenues by type, by fiscal year.

	<b>FY2006-2007 Number</b>	<b>FY 2006-2007 Amount</b>	<b>FY 2007-2008, Number, as of 2/21/08</b>	<b>FY 2007-2008, Amount, as of 2/21/08</b>	<b>Total</b>
Inventory processing fee - \$560	770	431,200	126	70,560	<b>501,760</b>
In-lieu inventory processing fee - \$320	295	94,400			<b>94,400</b>
Annual inventory maintenance fee - \$48			1,116	53,568	<b>53,568</b>
Lawsuit Settlement		54,393			<b>54,393</b>
Reconsideration Request Fee				6,800	<b>6,800</b>
Late Fees, Fines and Penalties		<u>6,856</u>		<u>7,626</u>	<u><b>14,482</b></u>
<b>Total</b>		<b>586,849</b>		<b>138,554</b>	<b>\$725,403</b>

### Annual Expenditures

In October of 2006, the Planning Department began to implement a citywide survey of all general advertising signs ("City Inventory"), with field work beginning in mid-2007. The Department allocated a Planner III and Planner II exclusively to this effort beginning in December of 2006 and April of 2007, respectively, for a total staff cost of \$128,714 in FY2007.

<b>Cost</b>	<b>FY 2006-2007</b>	<b>FY 2007-2008, as of 2/21/08</b>	<b>Total</b>
Staff	128,714	182,523	311,237
City Attorney		27,531	27,531
Office and other supplies		1,202	1,202
Software and equipment	<u>20,286</u>	608	20,894
Data processing	-	<u>2,106</u>	<u>2,106</u>
<b>Total</b>	<b>149,000</b>	<b>213,970</b>	<b>362,970</b>

For FY2008, which began on July 1, 2007, the Department budgeted \$437,849 for one Planner III, one Planner II, four Design Service Trainees, information technology equipment, and miscellaneous materials and supplies exclusively for the City Inventory. As of February 21, 2008, the Department had expended \$213,970 of this FY2008 budget allocation. This total includes the time of five individuals, including the full-time equivalent of four surveyors and

one supervisor. This personnel cost does not include management time from the Zoning Administrator, other members of the Code Enforcement Team who helped design the program, and the Finance Director who helped with the program's structure, funding and staff management. Thus, the actual personnel cost of planning and developing the City Inventory to date is greater than \$311,237. In addition, the Department has purchased equipment and supplies to conduct the City Inventory, including laptops and software designed for the general advertising sign survey, and paid for City Attorney advice and other miscellaneous expenses needed to support the program.

The \$362K balance (revenues of \$725K less expenditures of \$363K) in the program will support staff to review the legality of signs in the City Inventory and initiate enforcement actions. The remaining \$362K will allow the Department to complete the inventory and determine the legal status of all General Advertising signs.

## **Progress Report**

### **Inventory**

The first phase of the program was the development of an inventory of all signs in the City. This work began in October of 2006 with an introductory letter to known sign operators informing them of the sign inventory process and providing them with detailed instructions to ensure complete and accurate submittals. To achieve this, the Department developed a spreadsheet template for all sign operators to use as the basis of their submittals. The deadline for the general advertising sign companies to file sign inventories with the Department was October 23, 2006. The Department initially received 1,153 signs from 23 companies, with an additional 19 signs submitted after the deadline.

On December 4, 2006 the program coordinator (Planner III) was hired on a part-time basis, transitioning to full time work in the program in March 2007. The coordinator determined staffing and budget needs and developed procedures for verifying the inventory data with a citywide sign survey.

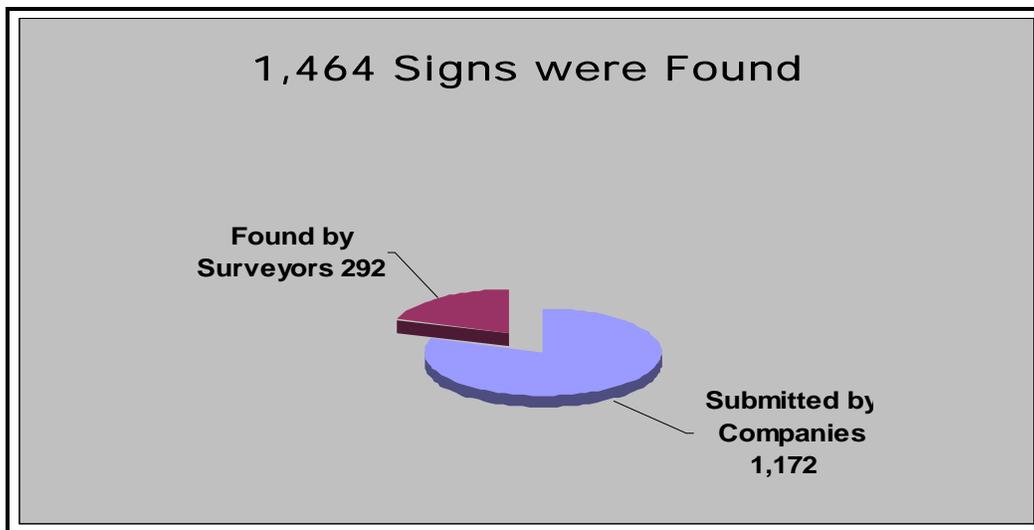
On December 11, 2006 and January 16, 2007, the Department received requests under the California Public Records Act and the San Francisco Sunshine Ordinance for access to information contained in the inventories submitted by general advertising sign companies. These requests were challenged by several of the sign companies, who sought and were granted a preliminary injunction against release of the information. Until the legal issues are resolved, the Department is forbidden from displaying any map showing the locations of general advertising signs in San Francisco and from disseminating any portion of the sign inventory that could be interpreted as being derived from the sign company's own inventories.

On April 23, 2007, another full-time planner (Planner II) was hired to oversee the field survey. The aim was to create and maintain a complete and accurate database of all general advertising signs in the City to be used for enforcement.

### **Field Survey**

In order to verify the sign company inventories, staff conducted a comprehensive survey of all general advertising signs within the City and County of San Francisco. Field survey methods and requirements were developed by Department staff, and Vestra Resource, Inc. of Redding California was hired to design a software application using Arc Pad GIS (Geographic Information Systems). Data would be collected in the field using laptop computers and digital cameras. A more complete description of survey methodology is provided in Appendix B.

On July 9, 2007, a team of surveyors (Design Service Trainees) were hired to perform the survey, which began on July 16, 2007 and was largely complete by the end of November 2007. In one sense the survey work is ongoing as new general advertising signs continue to be erected and are regularly added to the database as complaints are received. As of February 15, 2008, the Department's database includes a total of 1,464 surveyed signs, of which at least 292 were found by the surveyors independently of the sign company inventories. In addition, a number of sign records submitted by the companies could not be a matched with a sign in the field.



## **Enforcement**

The enforcement phase began in October 2007 with the issuance of the first Notices of Violation (NOVs), and was fully underway in December after completion of the survey. The enforcement strategy is primarily geographically based, with priority given to new sign complaints and to existing violations related to permit activity.

When a sign is found in violation of the Planning Code, an enforcement case is opened and an NOV is issued pursuant to Planning Code Section 610. The NOV is sent to both the property owner and the sign company (together the “responsible party”). The responsible party has 45 days to either 1) file a permit to remove the sign, 2) correct the violation, or 3) request reconsideration before an Administrative Law Judge (ALJ). A Reconsideration Hearing requires written evidence and a fee of \$3,400. All enforcement related fees and penalties are deposited into the Planning Code Enforcement Fund (see page 2 for revenue summary).

On the 46<sup>th</sup> day after mailing the NOV, if a permit has not been filed or the violation otherwise corrected, and no request for reconsideration is made, penalties begin to accrue based on the size of the sign and the matter is then referred to the City Attorney.

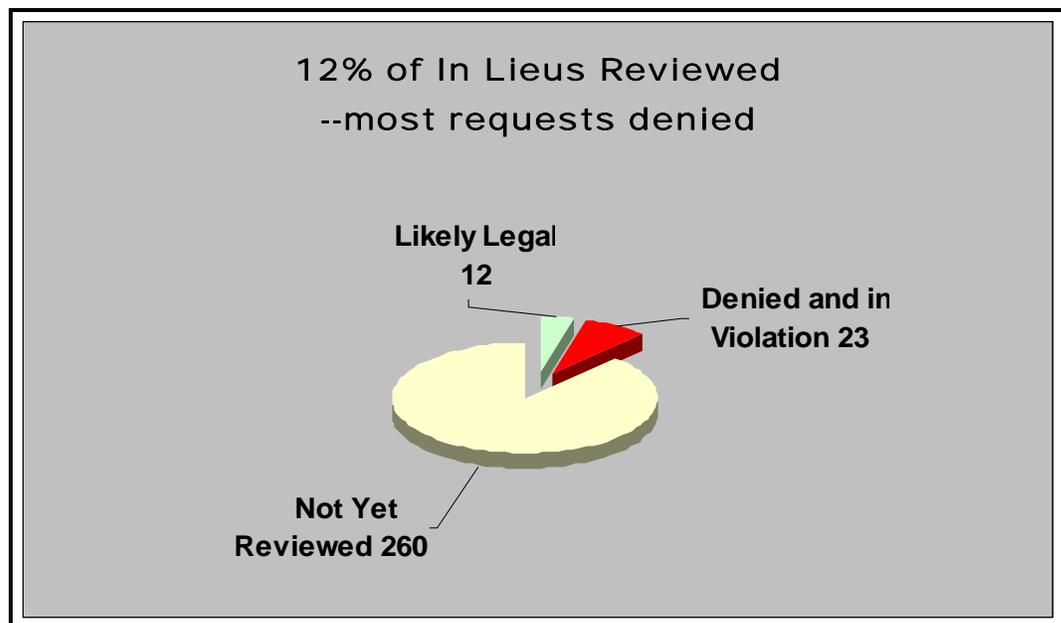
The in-lieu permit applications are processed along with the other signs by geographic area. Using the five criteria of Resolution No. 17258, a determination is made as to the likelihood that a given sign is legal. Any sign that cannot be considered likely legal after weighing the five criteria will be considered in violation of the Planning Code. For signs found to be “likely legal,” the responsible party must file for a building permit to formalize the legality and provide a permit number for the sign.

## **Enforcement Results:**

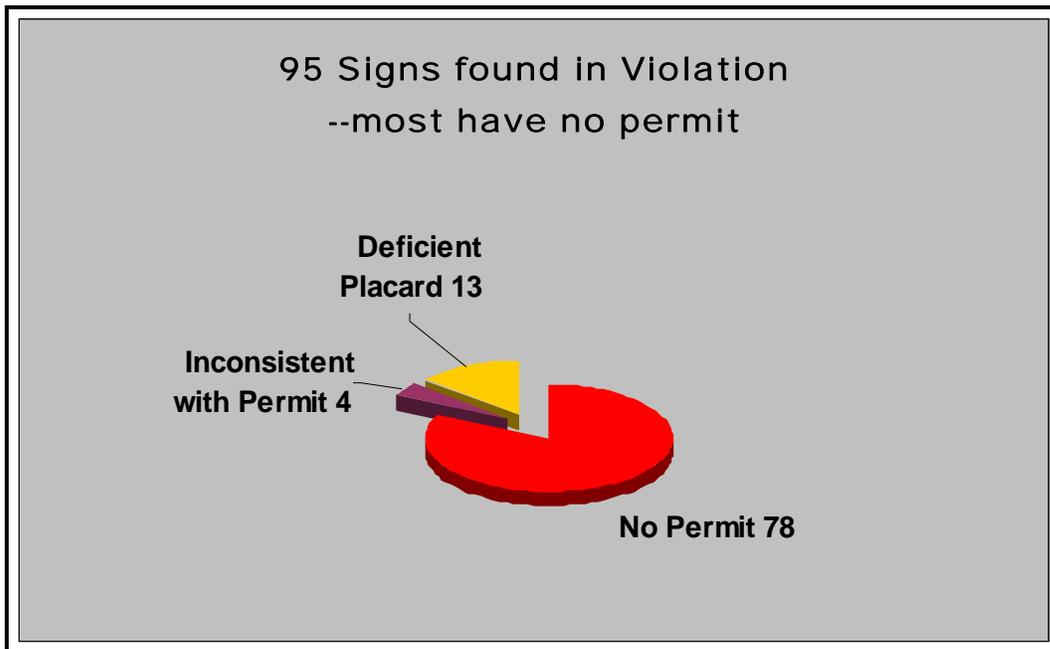
After three months, the Department has processed 164 of the 1,464 signs in the database, representing about 11% of the total. Of these 164 signs, 69 have been determined to be legal as is, or are in lieu requests determined to be likely legal. Another 95 signs have been found to be in violation, including denied in lieu requests.



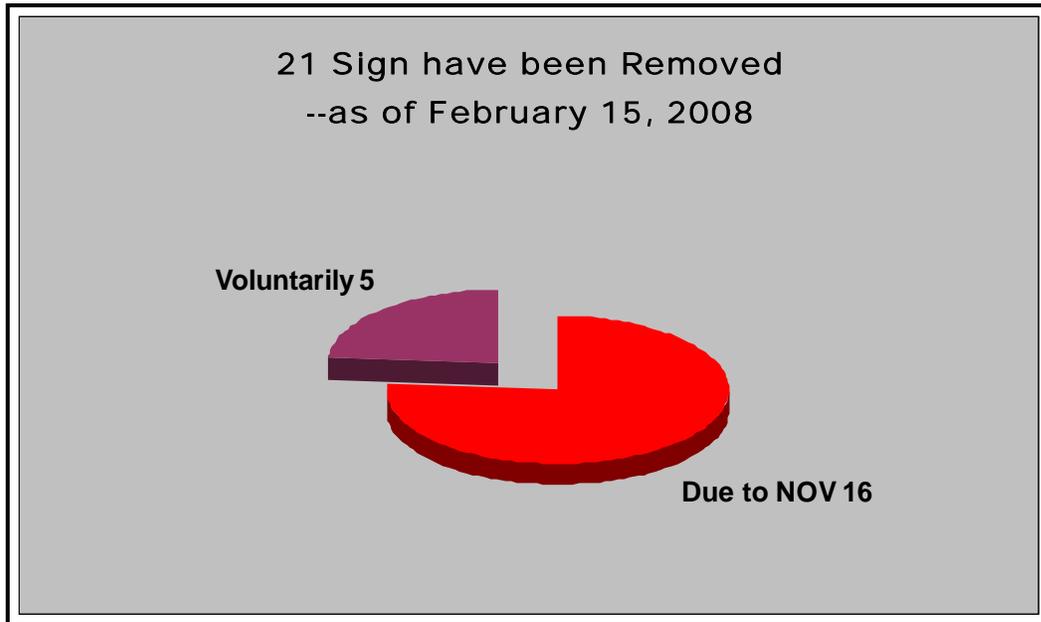
There are 295 requests for in lieu permits. To date we have processed 35 in lieu requests. Of these, 12 have been found to be likely legal and are subject to structural review and permitting through the Department of Building Inspection. The remaining 23 have been denied and issued NOVs.



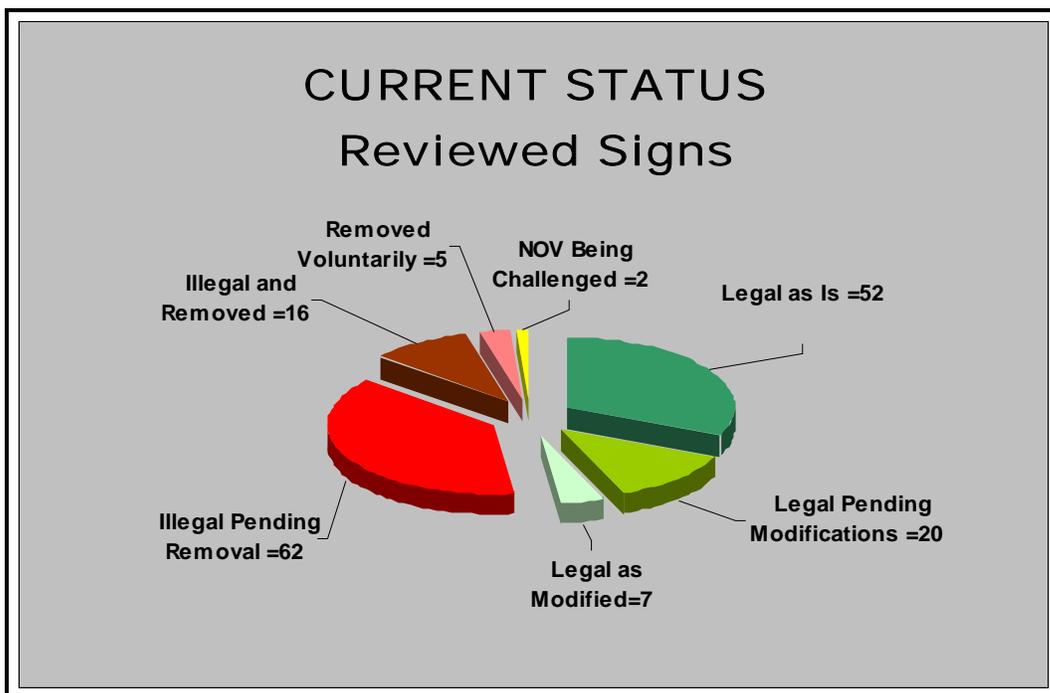
Focusing on the 95 signs found in violation, most do not have a legitimate building permit. Of these, 78 signs were either surveyed signs not previously included on an inventory, signs approved for business use but used for general advertising, or denied in lieu permit requests. Another 13 signs have incomplete or incorrect identification placards and 4 are inconsistent with their building permit and must be modified. Typical violations of this type are unauthorized illumination or placement along a wall or orientation that is inconsistent with permit specifications.



Altogether, 21 signs were removed as of February 15, 2008. This number is low because the program did not fully enter the enforcement phase until December 2007, and the enforcement process is designed to preserve the due process rights of the Responsible Parties (with the 45-day time period allowed for responding to the NOV and the 30-day period allowed to complete the work). Of the 21 removed, 16 were in response to the issuance of an NOV and the other five were removed voluntarily.



After each sign is reviewed, it is assigned a status in the database. The status is updated as conditions change. For example, a sign that is higher than authorized would be “Legal Pending Modification” on issuance of the NOV, but after an alteration permit is finalized, the status would be changed to “Legal as Modified.” The status chart represents only a



snapshot of sign status as of February 15, 2008. Most signs are either "Legal As-Is" (52) or "Illegal Pending Removal" (62). Another 20 are Legal Pending Modifications, 7 are Legal as Modified, 15 are "Illegal and Removed", 5 are "Removed Voluntarily" and two have sought reconsideration of the NOV by the ALJ. The first reconsideration hearings are scheduled for March 13 and March 27 of this year.

**Next Steps:**

Over the next two years, the program will continue reviewing and updating the sign inventory for completeness and accuracy, and enforcing against violations. The end result will be a complete and accurate inventory, with photos and permit records of all general advertising signs in the City. If we can overcome the legal challenges from the sign companies and have this inventory available to the public, it will be a powerful tool for enforcing against illegal signs in the future.



## Appendix A

### History of Legislation and Other Events

The General Advertising Sign Program has been assisted by a series of important legislative actions and other significant events since 2001 that allow for improved monitoring and enforcement of general advertising signs.

On May 7, 2001 the first in a series of stronger enforcement mechanisms was enacted. Section 604.1 was added to the Planning Code requiring sign companies to post a placard indicating the approved dimensions of the sign in addition to the sign company name and permit number. If no permit could be located, sign companies were able to apply for an “in lieu” permit number (see below for more information on the in-lieu process, including application requirements). The Planning Director may conclude that the sign was “likely legally authorized at the time it was installed” and could issue an identifying number in lieu of a permit number. No specific criteria for “likely legally authorized” were included in that legislation. It only required that the decision be based on “evidence submitted to or possessed by the Planning Department.”

Up to this time, enforcement of all Planning Code violations, including sign violations, were done through Section 176. Section 176 authorizes the Zoning Administrator to serve notice to the property owner or agent, requiring abatement of the violation. Penalties could only be recovered through a civil action by the City Attorney and appeals were heard by the Board of Appeals.

On May 18, 2001, Section 610 was added to the Planning Code, which established enforcement procedures specifically for general advertising sign violations. Under Section 610, a Notice of Violation (NOV) is sent to both the property owner and the sign owner describing the violation and allowing the “Responsible Party” five business days to remove the sign or to request a Director’s Reconsideration Hearing within 15 days. Administrative penalties were charged at the Director’s discretion. A reconsideration hearing could address the designation responsible party, the assessed penalties and/or the violation itself.

On March 5, 2002, the most significant development in sign regulation came about when voters approved Proposition G. Prop. G was a ballot initiative that prohibited all new general advertising signs within the City and County of San Francisco. This initiative, which passed with 77.5 percent of the vote, was codified in Section 611 of the Planning Code, with provisions exempting signs on vehicles or within public rights of way if permitted by local law, and allowing relocation of lawfully existing signs.

On September 8, 2003 the Planning Department notified sign companies of a five-week window for requesting in lieu permit numbers. The Department required that any pending violations for any other general advertising signs controlled by each company be abated prior to issuance of in lieu permits for that company. The Department received about 300 in-lieu permit requests.

On December 17, 2003 the Department used an Administrative Law Judge (ALJ) to decide a case against a sign company called Metro Lights. The ALJ hearing process proved a success and has recently been codified with modification to Section 610 for use with the current sign program.

On June 8, 2006, Resolution No. 17258 was adopted establishing criteria for determining the legality of signs, including a set of five criteria to be used in determining the status of the in lieu requests.

On June 20, 2006, Sections 303(l) and 604.2 were added to the Planning Code. Section 303(l) establishes criteria and procedures for the relocation of general advertising signs. Section 604.2 requires all general advertising sign companies to submit and maintain an inventory of all their general advertising signs located within San Francisco.

On July 18, 2006, Section 358 was added to the Planning Code establishing registration and maintenance fees for the general advertising sign inventories. The fees were set at \$560 per sign for initial processing of the inventory (\$320 for those previously submitted as in-lieu applications) and \$48 per sign for annual maintenance of the inventory. With the revenue collected from the inventory processing fees, and penalties collected on violations, the Department could provide the resources to operate a fulltime sign inventory and enforcement program.

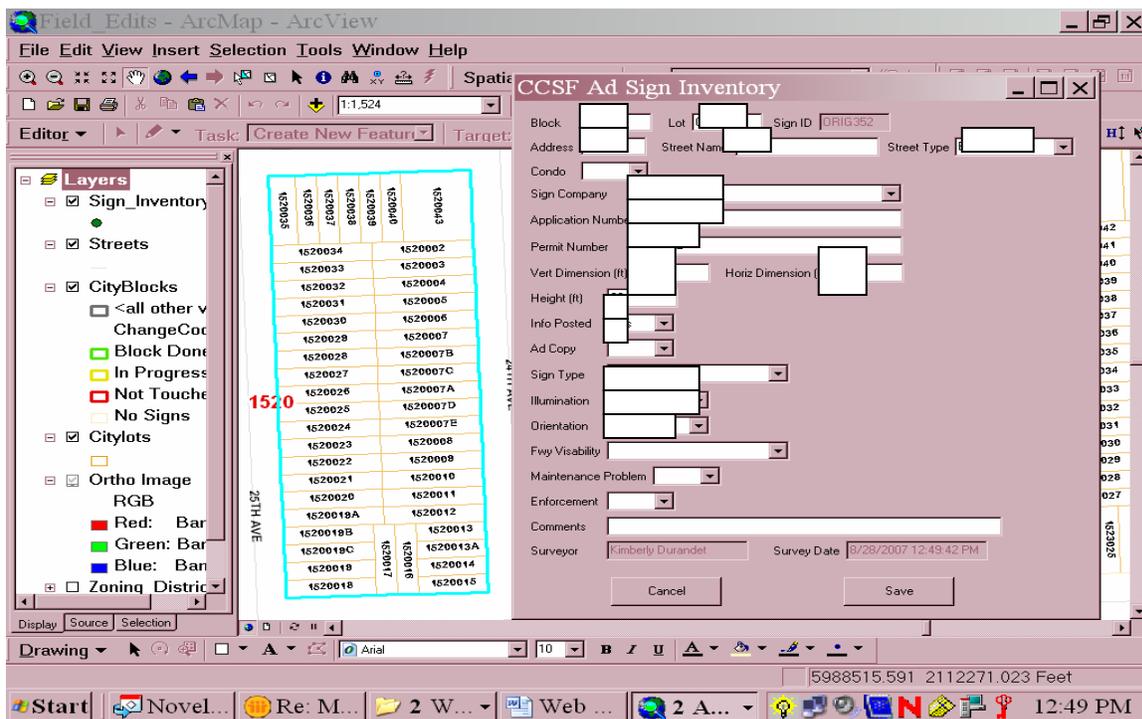
On April 16, 2007, Ordinance 52-07 (also sponsored by Supervisor Peskin) amended Planning Code Section 610 to improve enforcement provisions for general ad signs with more clearer definition of responsible party, more consistent and realistic compliance and penalty accrual timelines; clearer discretionary penalty assessments; added provisions for compliance methods; a reconsideration process that addresses due process concerns; and provisions for a reconsideration hearing fee to capture the Department's costs associated with such a hearing.

## Appendix B

### Survey Methodology

In order to verify the sign company inventories, staff conducted a comprehensive citywide general advertising sign survey. Field survey methods and requirements were determined by staff and Vestra Resource, Inc. of Redding California was hired to design a software application using Arc Pad GIS (Geographic Information Systems). Data would be collected in the field using laptop computers and digital cameras.

The laptops contained data submitted in the consolidated sign company inventory (limited to what would be observable in the field) and survey staff had a GIS map of highlighted blocks which may contain a general advertising sign. Once they reached the designated block, the surveyor would select the block on the map and a screen would pop up that contained records from the consolidated inventory. Information surveyors were required to record included: sign characteristics such as height, illumination, orientation; required posted information including sign company name, permit number, and dimensions; and, any obvious maintenance problems. Surveyors also assigned a specific location to a sign by adding a digitized point on the map and photographed each sign found in the field. Below is screen shot of the software used in the field with sign inventory information redacted.



The survey strategy was based on the geographic distribution of signs and survey team resource availability. Once the laptops were ready, surveyor resources were deployed throughout the city. Surveyors began the field research in teams of two, but quickly were able to separate into four individual surveyors as they gained proficiency with the equipment. The use of GIS technology enabled the survey team to cover ground quickly. The Planner II would assign a surveyor an area for the week with instructions to begin along a corridor of sign density, finishing with complete coverage of an area including blocks that did not show a sign record in the existing inventory. The efficiency of this strategy combined with the technology, skill and enthusiasm of the surveyors, resulted in completion of the field study months ahead of schedule.

Once all the preliminary data was collected, the survey team prepared a map to display the results of the survey efforts, showing the location of all signs found in the field. Since some sign companies had already filed a suit against the City regarding the release of information contained on their inventory submittals, the City informed the sign companies that the Department would be releasing a dot map of all surveyed signs. Several sign companies jointly filed an injunction against the release of this map to the public. The court ruled in favor of the sign companies and the map was ordered to be sealed. Therefore, we cannot share with the Commission or the public a geographic representation of our preliminary findings.

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