




CITY OF HOUSTON

Legal Department

Interoffice

Correspondence

To: Mayor John Whitmire
City Council Members
Via Agenda Director Marta Crinejo

From: ^{DS}
 Rashaad V. Gambrell
Section Chief
General Counsel Section

Date:

Subject: July 29, 2025, City Council
Agenda Item: SignAd Rule
12 Appeal (General Appeals
Board Review on the Record
re: sign located at 11700
Wilcrest Drive)

On April 10, 2015, the City of Houston and SignAd, Ltd. ("SignAd") entered into an agreement granting a special permit under Section 4617 of the Sign Code for a sign located at 11700 Wilcrest Drive. On November 14, 2024, SignAd, represented by Rothfelder Falick, LLP, applied for another Section 4617 Permit for the same off-premise sign located at 11700 Wilcrest Drive. The Sign Administration rejected the application because permits granted under Section 4617 are nonrenewable. The Sign Administration also determined that the sign was now in violation of the Sign Code because the Sign did not comply with location and spacing criteria set forth by Section 4617(a)(8)b of the Sign Code. SignAd appealed the rejection by the Sign Administration to the General Appeals Board. On March 27, 2025, the General Appeals Board upheld the Sign Administration's decision.

Rule 12 of Section 2-2 of the Code of Ordinances (see Attachment 1) provides that appeals to City Council "shall be reviewed by city council, without the taking of further evidence by city council, on the basis of the record of the decision from which the appeal is taken." The record shall include, but is not limited to, the hearing before the General Appeals Board, a transcript of oral testimony, exhibits offered and considered, written or oral responses, answers or questions, and all documents reviewed or considered by the General Appeals Board.

City Council's consideration of a Rule 12 appeal is on the record of the underlying evidentiary hearing, and no additional evidence or information may be considered, other than written exceptions, if any, and further proceedings of the General Appeals Board if Council finds that the record is incomplete or inadequate. Council Members and their staff should not meet with or have any communications with any parties regarding the sign located at 11700 Wilcrest Drive at any time prior to City Council's consideration of the matter. Personal contact, phone calls, etc., to discuss the matter, either with City representatives, officials, or the appellant is inappropriate as any such information is outside of the written record. City Council should not consider public speakers' comments, if any, about this pending Ruling 12 appeal since doing so would violate the Code provisions cited above.

In applying the “substantial evidence” standard of review,¹ City Council cannot substitute its judgment for that of the General Appeals Board. Rather, it must review the record to determine if there is any evidence upon which a reasonable person could rely to reach the same conclusion as the General Appeals Board. If there is any evidence, the decision must be upheld.

When the appeal is presented for action at a Council meeting, the Council must then vote on the appeal. Typical action by Council would be a motion to (1) uphold the action of the GAB; (2) overturn the action of the GAB; or (3) refer the matter back to the GAB for further proceedings to complete the record.

Attachment 1

City of Houston Code of Ordinances - Sec. 2-2. Council rules of procedure.

The following rules of procedure shall govern all meetings and proceedings of the city council:

Rule 12. Appeals to City Council.

Every appeal that is authorized by federal law, state law, the City Charter, or city ordinance to be made to the city council from a decision by an officer, agency, board or commission shall be reviewed by the city council, without the taking of further evidence by city council, on the basis of the record of the decision from which the appeal is taken. Consideration of appeals may be scheduled at any specific time on the agenda, irrespective of the order of business established by these rules.

The director of each department (or a designee), or the presiding officer of a board, commission or agency, or a hearing examiner (the "hearing officer"), as appropriate, shall conduct an evidentiary hearing, the record of which shall be made by a certified court reporter of any matter that may be appealed to the city council. The term "record" shall include, but is not limited to, a transcript of oral testimony, exhibits offered and considered, written or oral responses, answers or questions, and all documents reviewed or considered by a hearing examiner or officer, commission or agency, board, or department director or his designee at an evidentiary hearing.

Each presiding officer or hearing officer shall give written notice to any party appearing in an evidentiary hearing that:

- (1) A court reporter is required to prepare a record in order for there to be an appeal to the city council;
- (2) The party must request, in writing, the presence of a court reporter at the hearing before the hearing officer not less than 24 hours prior to such evidentiary hearing; and
- (3) The party requesting the court reporter agrees to pay all costs of the court reporter, including preparation of transcript(s) for appeal to city council.

¹ The findings, inferences, conclusions, and decisions of an administrative agency are presumed to be supported by substantial evidence and the burden is on the contestant to prove otherwise. *Blue Skies All. v. Texas Com'n on Env'tl. Quality*, 283 S.W.3d 525, 532 (Tex. App.—Amarillo 2009, no pet.). Substantial evidence is that which reasonable minds could have viewed as supporting the finding. See *Texas State Bd. of Dental Examiners v. Sizemore*, 759 S.W.2d 114, 116 (Tex.1988).

- (4) Except as otherwise provided by the City Code, the party appealing to city council shall submit the complete court reporter-certified record to the city secretary as required by this Code within 60 days of the decision of the officer, agency, board, or commission whose decision or action is the basis of the appeal. Failure to submit the requested or required records within the required time period shall constitute an untimely appeal to city council and a waiver by the appealing party to an appeal before city council.

In the event that an appeal to the city council is filed by a party to a decision, the city council shall consider the appeal solely on the basis of:

- (1) The written record of the hearing conducted below; and
- (2) The written exceptions, if any, of each party to the proceeding to the facts and administrative rulings and decisions made by the officer, agency, board or commission.

In the event the city council finds that the record is incomplete or inadequate, the city council may refer the matter to the officer, agency, board or commission for further proceedings to complete the record. All decisions of the council on the record, other than a referral for further proceedings, as described above, shall be final and not subject to further appeal or rehearing.