July 12, 2006

The City of Hamilton
City Council
Attention: The Honourable Mayor Larry Di Ianni
71 Main Street West, 3rd Floor
Hamilton, ON L8P 4Y5

Re: City of Hamilton Draft Sign By-law

Dear Mr. Di Ianni:

On June 21, 2006, I sent a letter to you and the Council members regarding the “mobile sign” issue. I am not sure if the message in that letter was made perfectly clear and fully taken into consideration. I hope you do not let that letter remain buried at the City Clerk’s Department as it appears other documents have.

In this letter I would like, as clearly as possible, to lay out the facts and the legal aspects, which came to the surface from the City’s past records, including the R.S.O. 1990, c. M. 45, and the S.O. 2001 c. 25, of the Municipal Act, respecting “Mobile signs”.

Background
“Mobile signs” and mobile sign lessors have been in existence since the mid ’60’s.

“Mobile signs” and mobile sign lessors have been specifically classified under the provisions of Paragraph 147 of the Municipal Act R. S. O. 1990, c. M. 45, see Appendix “1” (a). Also they may have been regulated pursuant to Paragraph 132, of the same Act, see Appendix “1” (b). The City’s Building Department’s Legal advisors informed and advised the City’s Planners as to how, and/or which signs have been regulated by this City. See Appendix “1” (c).

Legal Non-Compliance
The City of Hamilton’s Law Department also advised the Planners that one way to deal with Non-Compliance is to first licence and regulate persons who are carrying on the business of leasing Mobile signs pursuant to the Municipal Act. See Appendix ”1” (d).

As in the past record, “mobile signs” have been wrongly pursued in the by-law No. 97-026, also have been wrongly pro-actively enforced and/or enforced by this City’s by-law enforcement Department contrary to the order of R.S.O. 1990 of the Municipal Act, see Appendix “1” (a), (b) and (c).

10 years later, nothing has changed, except the ink colour in the pen of this City’s planners, who are desperately trying to tell us that those “deemed ground signs” are now re-deemed as mobile signs. See Appendix “1” (c). With respect to the draft sign By-law Section 2.0, definitions - “Mobile Sign” is wrong.
There are two separate major issues which have been wrongly addressed under one definition.

Issue No 1.
"Mobile signs" with wheels attached are vehicles, and fall under Part IV, Section 150, (8), (9), S.O. 2001 c. 25, of the Municipal Act. See Appendix "1" (d).
Therefore the term "Mobile sign" cannot be used in this by-law and/or pursued under s. 99, because vehicles and/or trailers do not fall under the sphere of jurisdiction of Structures including Fences and Signs, and whereas under Section 50 of the Municipal Act, S.O. 2001, Chapter 25, A Municipality does not have power to pass a by-law establishing a system of permits for motor vehicles or trailers...See Appendix"1" (f).

Issue No. 2.
Signs without wheels, that are on a frame and are supported on metal legs (which in fact, are anchored into the ground), are deemed to be ground signs by this City's Building Department, the requirements of the Zoning By-law, and the Building Code Act. See Appendix "1" (e).

Conflicts
This draft sign by-law by its definition is in conflict with Section 50 of the Municipal Act 2001, S.O, c. 25. Therefore, modify the draft sign by-law in section 2.0, Definitions, and delete the words "mobile sign" and "wheeled trailer".

This draft by-law under the Section 5.1.1 (f) also is in conflict with Section 50 of the Municipal Act 2001, S.O, c. 25 See Appendix"1" (f). Therefore, modify and delete the words"vehicle", "trailer" and "truck".

I believe this draft by-law is faithless, has no equality among classes, is defective in many areas, is misleading, is not enforceable, and its legality is in question.

If this draft by-law as it stands, is passed and enacted, it will only repeat history, it will offend and harm a large number of business' persons, who depend on such signs, and who have lawfully placed their own and/or hired signs. It is time to separate this tangled "portable/ground/mobile sign issue", and give this city of ours what it really deserves, which is to give it a clear and enforceable sign by-law, and make this Municipality the leading example to the rest of others.

It is your fiduciary duty to be fully aware of the actions you are taking. All you have to do is look into the facts, and use the wisdom of your conscience, as we all learn from our past.

Members of council, please remove this old, dark controversial cloud from our city, be in the driver's seat, open your "Bible", the Municipal Act 2001 and the "Old Book" being the Municipal Act R. S. O. 1990, c. M. 45.

Mr. Mayor and Members of Council, once again I thank you all for your time.

Yours very truly,
George Langadinos

Copy to all City Council members
Appendix "1"


Mobile sign lessors

147. For licensing, regulating and governing persons who carry on the business of leasing mobile signs.

Definition: (a) For the purpose of this paragraph "mobile sign" does not include a sign attached to a vehicle where the principal use of the vehicle is the transportation of people, goods or other materials.

(b). Paragraph 132, Licensing for wheeled vehicles.

Requiring all residents in the Municipality owing and using any wheeled vehicle or any class or classes thereof, other than a motor vehicle and a trailer as defined in the Highway Traffic Act and a wheeled vehicle used for farming...

(c). City's Record:

The City of Hamilton's Building Department's Legal advisors informed end advised the Planners quote, "they are regulating mobile signs under the Zoning By-law for those signs that have had the wheels removed from the chassis and are supported on metal legs. Such signs are deemed to be ground signs and the requirements of the Zoning By-law and the Building Code Act apply. The Building Department considers mobile signs with wheels attached as "vehicles" and do not regulate them under Zoning By-laws."

Please check the record, Re: City Of Hamilton -Recommendation- Date: 1993, April 22, CI-91 Report to: Tina Angelo, Secretary Planning and Development Department.

(d). Legal Non-Compliance

The City of Hamilton's Law Department also advised the Planners, quote, "In order to effectively and efficiently establish non-conformity with any by-law passed to regulate Mobile signs, it would be advisable that one way to deal with Non-Compliance is to first licence and regulate persons who are carrying on the business of leasing Mobile signs pursuant to Paragraph 147 of the Municipal Act. Such a regulatory system could determine the Status Quo or Non-Conformity permitted before any regulatory by-law concerning mobile signs was passed.

Please check the record, Re: City Of Hamilton -Recommendation- Date: 1993, April 22, CI-91 Report to: Tina Angelo, Secretary Planning and Development Department.

(e). Part IV Licensing And Registration, s. 150, (8).

(i). to regulate the equipment, vehicles and other personal property used or kept for hire in connection with the carrying on or engaging in the business; 2001, c.25, 150, (8).

(f). Restriction, motor vehicles

50. A Municipality does not have power to pass a by-law establishing a system of permits for motor vehicles and trailers, as those terms are defined in the Highway Traffic Act, similar to the system Part II of that Act. 2001, c. 25, s. 50.