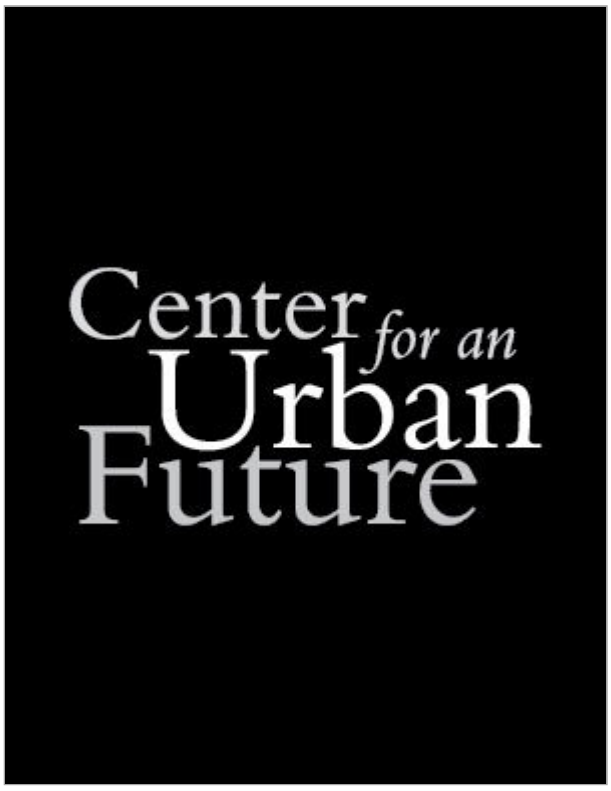


Commentary/Op-Ed - August 2003

The outrage over New York City's storefront awning ticket blitz is justified—but so are the limits

The outrage over New York City's storefront awning ticket blitz is justified--but so are the limits on signage.

by Jennifer Gerend

It sounded like a classic little-guy-gets-dumped-on-by-big-bureaucracy tearjerker: First came the pictures in the papers and on TV of familiar-looking awnings advertising "beer, cigarettes, Lotto, sandwiches, 24 hours, delivery," accompanied by the oh-so-shocking news that such awnings are actually illegal. Then there were the wet-eyed testimonials from merchants who received fines of $2,500 this past spring, and who insisted they didn't know about the law.

During a ticket blitz that included $55 fines for those car-dealer license-plate frames, a $50 ticket for feeding pigeons in the park and a summons for a pregnant woman blocking a stairwell, it was easy to add "illegal awning crackdown" to the list, and the media did just that. The papers were quick to label the law "arcane" and the summonses "silly." ABC's 20/20 saved the story for its "Give Me a Break" segment. As he stood before the wonderfully dizzying signage of Times Square, John Stossel expressed his disbelief at the stupidity of it all: Wasn't big, flashy signage a quintessential New York experience?

Well, yes and no. Times Square is really more the exception than the rule. All of the buildings in the core of Times Squareare required to have large, flashy signage as part of a Midtown special district passed in 1990, according to Daniella Eidelberg of the Times Square Business Improvement District. The intent of the regulations, according to Eidelberg, was to "preserve the bright lights and signs that have made Times Square famous." Eidelberg added, "They help create the ambience of Times Square and distinguish it from other parts of Midtown."

In other words, Times Square is world-renowned because it doesn't look like the rest of the city, and for good reason: How beloved would Times Square-like signage really be on your block?

The truth is, the current awning regulations do serve a purpose. They not only help keep the city from becoming one big

Times Square, but they also help businesses prosper and encourage the economic development of the communities they serve.

If you were house-hunting for your family, you would probably prefer a home in an area where residents sweep the sidewalks, plant flowers and maintain their buildings. Business owners feel the same way. Furthermore, neat, clean storefronts attract pedestrian traffic: In general, when choosing which way to walk to the subway or another local destination, people naturally gravitate toward the route that seems the safest and most visually pleasing. That has certainly been true on Myrtle Avenue in Brooklyn, where the aesthetic improvements to the commercial strip have led to such a boom in pedestrian traffic that our Local Development Corporation has to employ private sanitation workers from 6 a.m. to 7 p.m., six days a week, to remove litter and empty overflowing trash cans.

To be sure, the current rules are a little strict. Under the regulations, which took effect in 1961, when awnings were mostly retractable and mainly used to provide shade or cover from the rain, an awning is only allowed to state a business name and address in a 12-inch or smaller font. By contrast, regulations governing flat signs focus not on their content, but on ensuring that their size, hanging height and illumination are appropriate to the zoning. But taken together, these regulations make a certain sense: They allow merchants to say what they wish on signs that hang flush against the building, but limit what they can print on the awning that protrudes over the sidewalk. They also prevent a merchant from having both a wordy sign and a wordy awning. And on a practical note, do we really need an awning anyway to tell us that a bodega sells cigarettes, Lotto tickets and soda?

Although they got most of the attention, the rules governing the content of a merchant's awning are not the only place businesses got into trouble last spring. The New York Times reported that 494 of the 1,211 awning summonses were for awnings without permits. Most signs and awnings require permits, which can be filed by licensed awning or sign companies that employ permit brokers. Many merchants don't request these permits, however, either because the process is not clear to them, or because they hear the law is never enforced and would rather save the money (often around $700).

This is one reason it's also fair to say there was indeed a ticket "blitz." Enforcement of awning and sign regulations over the years has been minimal, so when Department of Buildings inspectors this spring began issuing tickets, it felt to many like a sting operation. To be fair, maybe the fines given out during that period should be waived, or perhaps those merchants should be given a grace period in which to comply with the law, since enforcement was sudden and some business owners may not have known of the rules.

However, while some reform may be needed, the answer is not to discard the existing regulations entirely.

To understand the reason for regulation, you have to delve into the psychology behind an average commercial strip. Given free rein, many merchants will list as much on their awnings as possible--even their entire menus. I have spoken with merchants about this, and many admit their tendency to be "long-winded" on awnings. One Brooklyn merchant acknowledged, "There needs to be a limitation on the amount of language on awnings to head off ridiculous amounts of information."

Why do merchants want to put so much stuff on their awnings anyway?

I believe that many small-business owners get pulled into an awning "arms race." One merchant will put up a large, flashy awning and block the view to the other more modest signs on the block. As a result, the neighboring merchants feel the need to get even larger, wordier, flashier signage to be noticed. On Myrtle Avenue, for example, we once had a merchant install a three-story-high awning. Without some regulation, there would be nothing to prevent this and more.

In addition, awning companies often steer merchants toward flashier signs, for their own reasons. The mainstream media have reported that it would cost "thousands of dollars" for a merchant to replace his or her awning. In fact, a simple canvas awning for a 20-foot storefront costs more like $1,800, and lasts about eight years--or even longer if one occasionally gets it

steam-cleaned. The illegal ones, with their extensive lettering and lights, cost much more.

On top of the race for bigger, flashier signage, many of our merchants are bombarded by soda manufacturers and others offering free or reduced-price awnings. This is a ploy to get merchants to install awnings that advertise a specific brand ("Sprite") instead of their own business identity ("Bob's Corner Store"). Many merchants only see the immediate advantage of a free awning, without even considering the long-term economic effects of this choice. How will satisfied customers identify the store to others, for example? What if Bob wanted to become a chain, with more Bob's Corner Stores? No one would know that they were related if all they saw was a "Sprite" awning.

From the awnings arms race to the incentives from advertisers to problems with permits, the forces against legal signage are formidable. I don't blame merchants for being confused. But the good news is, even under the current regulations, merchants actually have many options for creating overall faades that are both legal and effective. A flat sign can be hung against the side of the building to add information, or a transparent window decal logo can communicate a business identity without blocking light through the window. A see-through metal security gate can allow window-shopping at night while also warding off graffiti.

To help local merchants understand these issues and navigate the regulations, many BIDs and LDCs operate facade improvement programs that work with merchants to implement new signage. Since 1978, the city's Department of Small Business Services has been helping organizations in eligible areas to implement these programs, which have dramatically improved the appearance of many of our retail corridors. Landmark West, for example, has worked with several-hundred small retailers since 1997 to improve signage in the area around 72nd Street between Broadway and Columbus Avenue. The MetroTech BID in Brooklyn also has a facade-improvement program that has helped many small businesses get new signage that is legal, attractive and affordable.

Under a typical facade improvement program, a designer will work with a merchant to create a new awning or sign, a sign company will manufacture it and acquire the permit and the BID or LDC will give an incentive grant for part of the cost to encourage such improvements. Such programs can do much to help older businesses, in particular, by attracting renewed interest, allowing them to better compete with newer, trendier neighbors. (This is not to say there isn't a place for older signage. The city is full of fabulous 1940s-era liquor store and pharmacy signs, for example, that could simply be repaired and cleaned.) On Myrtle Avenue in Fort Greene and Clinton Hill, merchants who have participated in our LDC's facade improvement program have reported as much as a 50 percent increase in sales. And better-looking stores attract more shoppers and more new businesses, strengthening the whole retail strip and the surrounding community.

In response to complaints from merchants and news coverage of the ticketing blitz, the City Council quickly took up the awnings issue this summer, and a six-month moratorium on ticketing for illegal awnings passed on June 25 by a vote of 47 to 1. Even before the vote, the mayor agreed to the moratorium.

So what comes next?

Let's use these six months to have a dialogue about reform among the mayor's agencies that deal with signage and small businesses, the City Council, the City Planning Commission and BIDs and LDCs around the city that operate commercial revitalization programs. We should also include merchants and awning companies, to ensure that the regulations are both fair and clear to those who must comply with them.

Perhaps the rules should be relaxed just a little. For example, I agree that a phone number would be useful on an awning, and maybe an appropriately sized logo for the business (not an advertiser like Lotto or a soda manufacturer). And while we're looking into a signage regulation and trying to develop an enforcement system that works better, maybe we could trim a little bit off the cost of the permits? I know we're living in tough budget times, but even if signage permits were significantly cheaper the city would likely take in more revenue overall, because merchants would much more likely to comply with the law

and apply for them. Maybe we should also reconsider which signs and awnings should even require a permit. Currently only very small signs, those less than six square feet, are exempt.

But let's not lose hope about the future for attractive and individualized signage. City Council Speaker Gifford Miller has said that 90 percent of our awnings are in violation of the code, and therefore the code must be reformed. This is the wrong motivation to change a policy. If 90 percent of our restaurants violated the health codes, would we change the legislation to make that standard legal?

Honestly, New York has some of the ugliest signage in the world. Go to London, Berlin, Paris, Brussels or most other major metropolitan cities and tell me otherwise. Stateside, Boston seems to be winning the fight. On a trip there last fall, I was surprised to see even the likes of CVS and 7-11 conforming to minimalist signage code. When we try to get national chains to participate in our signage programs in New York, they laugh in my face!

We can do better. Instead of simply abandoning the awnings code, let's develop a system that is clear, sensible, enforceable and helps our merchants dress for success.

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