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## FACT SHEET: Language-Restrictive Sign Ordinances

In the past fifteen years, scores of cities across the country have adopted language restrictive sign ordinances. The National Asian Pacific American Legal Consortium (NAPALC) believes many, if not all, of these ordinances are discriminatory and violate the rights of immigrant business owners to free speech guaranteed by the First Amendment of the U.S. Constitution.

NAPALC opposes any sign ordinance that restricts the use of non-English languages in a manner that infringes the right to freedom of expression guaranteed by the First Amendment, or constitutes discrimination on the basis of national origin in violation of equal protection principles found in the Fourteenth Amendment.

### What are Language-Restrictive Sign Ordinances?

**Definition.** Language restrictive sign ordinances are local laws that place a language restriction on the characters of a sign. Most language-restrictive sign ordinances have been enacted in communities with large concentrations of Asian Pacific Americans.

**Features.** Typical ordinances may contain some or all of the following features:

- (1) a requirement that a certain percentage of the sign area be devoted to English;
- (2) a requirement that English be the predominant language;
- (3) a requirement that if non-English characters are used, the address of the establishment be written in English; and
- (4) a requirement that the English characters be of a certain height, or as tall as the non-English characters.

### Why Do Businesses Use Non-English Signs?

**Non-English communication is necessary.** Immigrants are becoming English speakers at a rate faster than previously seen in this century. Statistics show that demand for English as a Second Language (ESL) classes greatly exceeds their availability. However, despite this rapid conversion to English, non-English communication remains a necessary component of an ethnic community's transition process.

**Identifying and advertising to the ethnic community.** The character of an ethnic neighborhood is enhanced with signs in the predominant language of the community. Moreover, businesses within ethnic communities cater primarily to customers who only speak the language of that community. As a result, advertising for these businesses must necessarily use the non-English language to reach their target audience.

### What is the Motivation Behind Language-Restrictive Sign Ordinances?

**English-only sentiment.** The recent wave of immigration has fostered a misperception that newcomers are no longer learning English. English-only advocates warn that without English-only laws, the nation will become divided along language lines. Believing that language is the key to assimilation, English-only advocates blame multilingual programs for slowing or preventing the assimilation of immigrants into mainstream American culture. Language-restrictive sign ordinances are a manifestation of this larger English-only movement.

**Pretenses for discrimination.** Of the known existing and proposed language restrictive sign ordinances, most are directed at Asian ethnic communities, primarily Chinese and Korean business districts. Ordinance promoters justify the laws by claiming that if signs are at least partially in English, emergency personnel can pinpoint locations in health or safety crises. While NAPALC supports the promotion

of legally justifiable measures designed to promote safety, the language-restrictive sign ordinances are often pretenses for discrimination. Indeed, the language of the ordinances fails to effectively and fairly address the public safety interest. The most comprehensive method of addressing the safety concern is by requiring all signs, not just non-English signs to include Arabic numeral addresses. None of the known language restrictive sign ordinances require this. Instead, select Asian communities are targeted for compliance.

### **What are Some Characteristics of Unconstitutional Sign Ordinances?**

**Infringement of the freedom of expression.** A person's choice of language is an expression of national origin, culture, and ethnicity. Thus, when an ordinance requires that a portion of a non-English sign be devoted to English, the sign owner's freedom of expression is restricted. Ordinances that restrict an individual's freedom of expression can be justified only if they are narrowly tailored to serve a compelling government interest.

**Requiring English translations or a specific percentage or dimension of the sign to be in English.** Many sign ordinances require English translations or specific percentages of the sign area in English but do not require the numeric portion of a street address to be in Arabic numerals, although the numeric portion of a street address is the most concise and accurate location identifier. Because the English language requirements are not narrowly tailored to achieve public safety interests, they violate the First Amendment by restricting a sign owner's freedom of expression without proper justification.

**Requiring English characters of a certain height.** Sign ordinances requiring that English characters be specific height, or as tall as the non-English characters, suffer from the same defects. The English-language name or description of a business, regardless of height, is not necessarily essential in pinpointing its location for emergency personnel. The more precise location identifier, the numeric street address, is not required. Again, because of the lack of narrow tailoring such ordinances restrict a sign owner's freedom of expression without proper justification in violation of the First Amendment.

**Equal protection violations.** Because language is an expression of national origin, ordinances that require a portion of a non-English sign to be devoted to English restrict a non-English sign owner's expression of national origin. However, an English sign owner is not similarly restricted. Ordinances that discriminate on the basis of national origin can be justified only if they are precisely tailored to serve a compelling state interest.

**Applicability limited to non-English signs.** A city has a compelling public safety interest in locating all businesses in an emergency. However, an ordinance that only requires non-English signs to provide identifying information such as the type of business conducted on the premises, places no similar burden on English signs, and thus the public safety interest is not necessarily served. For instance, a laundromat with washers and dryers that are clearly visible through windows may be required to state in English "Laundromat" in its non-English sign, while a print shop with a sign stating "AI's" located in a building with no windows or markings, would have no such requirement. Such ordinances discriminate against non-English sign owners on the basis of national origin without proper justification, in violation of the principles of equal protection guaranteed by the Fourteenth Amendment.

**Particular ethnic groups targeted.** When enforcement of a language-restrictive sign ordinance targets one ethnic group and leaves other violators alone, the disparity in enforcement is strong evidence of discriminatory administration of an ordinance. Such discriminatory administration violates the principles of equal protection guaranteed by the Fourteenth Amendment.

**Unconstitutional vagueness.** A statute is unconstitutionally vague if the conduct forbidden by it is so unclearly defined that people are unsure of its applicability. People must be given clear notice of what is prohibited, so they can act accordingly. In the context of language-restrictive sign ordinances, vague ordinances cause people to refrain from using legitimate expression because they are uncertain as to what is prohibited.

**Vague wording.** Ordinances claiming applicability to signs with "foreign languages" or "other languages" are unconstitutionally vague, because it is unclear whether ordinances using such language apply to signs containing non-English words written with English characters (e.g. "La Fiesta," "Chateau Brasil," "Pho 79," or "Dong Il Jang"). Similarly, a sign ordinance requiring that the English portion of a sign be "more visible" or "predominant" is vague, because it is unclear when these requirements are met. For example, would small English words in a large non-English sign be "more visible" or "predominant" if they were illuminated or in a brighter color?

For a more detailed legal analysis of the issues presented herein, please contact NAPALC.