

Thinking Outside the Big Box

L.A.'s New Law to Rein in Wal-Mart Isn't Sweeping, But It May Be Smart

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<http://www.laane.org/pressroom/stories/ad/ad040813LaWeekly.html>

In recent months the Los Angeles City Council has prohibited silly string, for one day of the year, in one community only, and it has adopted brave new laws requiring grocery stores to keep better track of their shopping carts. Members have pondered banning smoking at beaches and have opened negotiations on the use of land hundreds of miles away in the Owens Valley - before learning that they have no authority to do any such thing.

Such initiatives may provoke a chuckle or two and may even prove to be in the best interest of city residents after the laughter dies down. But they hardly constitute the kind of progressive reforms expected in some quarters after last year's elections bolstered the council's liberal core.

With Eric Garcetti and Ed Reyes already leading the way on several key projects, and with strong backing from council President Alex Padilla, the council's progressive agenda was supposed to take off with the addition, in July 2003, of Antonio Villaraigosa and Martin Ludlow. First on the books was to be a ban on big-box stores selling groceries, followed by inclusionary zoning to guarantee more housing for middle-income and low-wage residents, and community-impact reports to let neighbors know what proposed developments would do to local paychecks, job movement, traffic patterns and home prices. Next up would be sweeping environmental initiatives, labor policies and police reforms.

What happened? Starting with the big-box ban - which would have prohibited Wal-Mart Supercenters and similar grocery-selling, wage-lowering discount mammoths - did the council chicken out?

Members this week passed a modified big-box ordinance that discards the proposed ban and shrinks the area subject to the law from the

entire city, as lawmakers once contemplated, to only designated economic-development areas.

Wal-Mart has bullied one city after another into backing down on bans against its Supercenters, which it began opening in California this year. When cities have moved ahead with tough restrictions, the company has been quick to counterpunch with lawsuits or ballot measures.

That, at first glance, appeared to be what was at work in Los Angeles. Wal-Mart spokesman Peter Kanelos told a joint committee chaired by Garcetti and Reyes earlier this month that their new ordinance, while faulty, was "not as bad" as the total ban they put together before. That's practically code for "we beat you into submission."

But it could well be that instead of beating a hasty tactical retreat, Garcetti and Reyes - in mulling and refining the ordinance for months and in finally eliminating the outright ban in favor of community input - actually made an astounding strategic advance. Wal-Mart watchers around the nation are now looking closely to see whether Los Angeles will strike the first successful blow against the world's largest corporation since the Battle for Inglewood in April.

The law, which goes to a final council vote next week, requires the developer of any superstore eyeing sites in L.A. to show what effect projects would have on prospective new neighbors (a second council vote is needed before the measure proceeds to Mayor Jim Hahn for signature). With economic, pollution and traffic data compiled and presented by analysts hired at the superstore's expense, and with small businesses and living-wage activists on notice, local officials will now be able to give the final thumbs-up (or -down) to any mammoth store on a case-by-case basis.

Any retailer proposing 100,000 square feet or more of sales-floor space, with at least 10 percent of it devoted to the sale of non-taxable goods (groceries and prescription drugs), would be subject to the ordinance. That takes in pretty much any Wal-Mart Supercenter, which usually measures around 200,000 square feet and is the primary target of unionized grocery workers at traditional supermarkets.

Restricting the laws to economic-assistance zones is not as limiting as it might seem. Once redevelopment areas and several types of empowerment zones are accounted for, the only places left over are communities like Pacific Palisades, Brentwood and Woodland Hills that, frankly, are stocked with enough wealthy and influential homeowners that there's no way they would get a superstore unless they demanded one.

City Attorney Rocky Delgadillo was prepared to go to the mat defending a comprehensive citywide ban, and backers of the more sweeping measure actually looked forward to a court challenge because Delgadillo's people said they could win.

But they could also lose. The more limited ordinance has a better chance of emerging victorious not just at trial, but at the crucial pretrial stages where costs are weighed and compromises are brokered. The more airtight the ordinance is, the less likely the city would be to back down in settlement negotiations with a big-business plaintiff.

And then there is the ballot process, which Wal-Mart has used to roll back government-imposed restrictions in a host of communities up and down the state. A sweeping superstore ban would almost certainly end up on a future ballot as a referendum, where voters would have to vote "yes" if they want to keep it in effect. Getting people to vote "yes" on a ballot measure is always harder than getting them to vote "no," as Inglewood voters did when they blocked Wal-Mart's plan to bust through a host of planning and environmental laws. Under the new law, though, it is the big-box company that will have to ask community members to say "yes" to any given development. And they will have to back up their request with data.

Is there any chance that a Wal-Mart Supercenter could survive the community-impact process? Sure, there's a chance, somewhere between slim and none. And that represents another strategic advance for progressives: Any superstore that still wants to come to town would have to change its ways. It would have to market its project to the neighborhood, offering not just jobs but other community benefits to balance out the burden it would place on traffic and the downward pressure it might exert on wages. A store would be compelled to

engage the community in discussion and, in effect, become a responsible neighbor.

That's the hope, at least, of the Los Angeles Alliance for a New Economy (LAANE), the group that brought Los Angeles the living wage and took the lead role in organizing the successful Inglewood campaign in April.

"These changes were our suggestions," LAANE's Roxana Tynan said. "It's based on what we learned in Inglewood."

Which brings us back to the Community Impact Report (CIR), the LAANE-sponsored plan to require developers of all major projects in Los Angeles to submit an economic and environmental analysis to community review before being allowed to move forward. The CIR went earlier this year to the City Council and the Community Redevelopment Agency, but both bodies waited to see what the other would do. In the end, there was too much opposition from business and development interests, so the CIR was put on hold while the superstore plan was hammered out.

And here now is a superstore ordinance that includes in its new smarter form a template for community input on development projects. The CIR has its foot in the door in the big-box law and will get an opportunity to prove itself and, its backers hope, calm any fears that it will dry up development.

In fact, neither the superstore law nor the CIR is essentially new in Los Angeles. The city's general plan already couches land-use questions in terms of the quality of life. The superstore ordinance is also a land-use law but is aimed more specifically at economic impact.

There is still room to argue over whether the final say on development in the city will belong to neighborhoods or to LAANE and labor. But to Garcetti, Reyes and their council allies, the ordinance is a step in the right direction. The next move, after Labor Day, is inclusionary zoning - a year late, perhaps, but right on time.