



LUKE CHARLES LIROT, P.A.

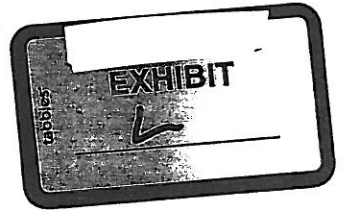
ATTORNEYS AND COUNSELORS AT LAW
2240 BELLEAIR ROAD, SUITE 190
CLEARWATER, FL 33764



(727) 536-2100 TEL
(727) 536-2110 FAX

October 30, 2012

VIA HAND DELIVERY



LaPorte County Board Of Commissioners

555 Michigan Avenue, Suite 202
La Porte, IN 46350

Re: LaPorte County, Indiana- Proposed Local Law
Adult Oriented Businesses – Predicate – Preliminary Comments

Honorable Commissioners,

As you know, my firm represents the Phoenix Plaintiffs as Co-Counsel with David Ambers, Esq. I have provided you with a Compendium of the *Contradictory and Inconclusive Findings* of the local government “studies,” and with the Analysis prepared by R. Bruce McLaughlin, AICP, and Dr. Daniel Linz and Mike Yao. Following are brief comments on the individual documents often cited by various towns trying to impose censorship under the guise of regulation as it relates to Gentlemen’s Clubs.

First, I would note that the County is relying on so-called studies that are rife with erroneous research and flawed methodology. Most valid studies **find no evidence of harm caused by adult businesses**. See the *Contradictory and Inconclusive Findings* submittal. Please allow me the privilege of providing you with his correspondence in an effort to prevent the adoption of more misguided legislation that does nothing more than deprive citizens of their rights.

By way of background, my firm has been extensively involved in a multitude of First Amendment cases, involving a huge variety of First Amendment issues for the last 25 years. I have represented churches, schools, journalists, law enforcement web sites and gentlemen's clubs throughout the country, just to name a few of the issues that I have dealt with in my legal career. That being said, I have also testified as an expert witness regarding the constitutional issues surrounding the regulation of adult entertainment businesses, and, quite candidly, trying to correct the stereotype that adult entertainment businesses cause any adverse impact on the areas in which they are located.

Adult entertainment, specifically exotic dancing, in some form, has been the focus of governmental action, certainly since the days of Anthony Comstock, a Civil War Veteran who spearheaded a number of different regulations imposing censorship boards on anything deemed to be even remotely sexual in nature. The earliest recorded history of any "exotic dance entertainment" traces itself to the Chicago World's Fair of the 1890s, when scantily clad belly dancers became part of the "sideshow." Various “burlesque houses” and other “follies” theaters developed throughout the 20th century, and, beginning in the 1980s, the format of “dance clubs” began its transformation to the

"gentlemen's clubs" of today, by incorporating fine dining and gracious supper club atmospheres, and reflecting top class operations and extensive investments in the physical structure of the businesses.

The "Comstockery" of the past has now given way to an understanding that adult entertainment, differing from other forms of entertainment only in its "content," is clearly protected by the First Amendment to the United States Constitution. Since the 1970s, and consistently in every decision decided by the Supreme Court since then, the need to protect the open exchange of "ideas and information" has been recognized by the courts, and this includes the messages communicated through adult entertainment. Moreover, the First Amendment requires a neutral application of the principles of protecting all forms of speech if it is to have any value whatsoever, and even the "controversial" and "objectionable" have been deemed to be appropriately protected. The First Amendment protected nature of adult entertainment, subject to a basic analysis similar to the First Amendment protected status of political speech and freedom of religion (areas of "speech" also rife with controversy and different opinions) is now beyond dispute.

The "gentlemen's clubs" of today, and particularly that proposed by the Phoenix Plaintiffs, have consistently been shown not to cause any "adverse secondary effects," such as an increase in crime, an adverse impact on property values, or any negative impact on the tone of commerce in the areas where they have been established. Surprising, results have been quite to the contrary. Properly conducted scientific studies have consistently shown that "places of public assembly," that *do not* feature adult entertainment, have consistently more "calls for police service" than their "adult entertainment" counterparts. While this seems inconsistent with the "stereotype" that many people have, by way of example, large commercial insurance companies have recognized this fact, and insurance policies for "premises liability" issues have consistently lower premiums for the same coverage, when obtained by adult entertainment establishments. Other businesses, such as gas stations, convenience stores and the like, actually enjoy an increase in commerce if they are in the vicinity of a popular and well-run adult entertainment establishment.

Having participated in scores of different lawsuits involving adult entertainment businesses, I have reviewed numerous studies that have been conducted in an effort to test the hypothesis of whether adult entertainment businesses actually have any "adverse secondary effects" on surrounding areas. Studies done in New York, Jackson Mississippi, Miami, Florida, the Carolinas, and virtually every other location, where I have participated in representing gentlemen's clubs, all show that these businesses, notwithstanding any controversial content that they may exhibit, do not cause any increase in crime or have any adverse impact on adjoining property values. One particular study was done in Fulton County, Georgia, where the gentlemen's clubs commissioned a study to prove that they had significantly less "calls for police service" than their counterparts that were also places of public assembly, but did not present any adult entertainment. The conclusions of the study showed that the adult businesses had infinitesimally less problems than non-adult businesses, and the county, fighting these conclusions to be incredulous, commissioned their own study. Not surprisingly, the county study reached the exact same conclusion.

Unfortunately, it is the outdated and unjustified "stereotype" that is the "gentleman's club" of today's biggest obstacle. Undeniably, there are many vocal factions that couldn't care less about the well-established empirical evidence showing that these types of businesses do not cause any secondary effects, and voice their opposition of these businesses in the context of "moral objections." This is all well and good, because the right to voice those "moral objections" is the same right that protects the establishment and operation of these businesses, seen by many as pleasant entertainment, valuable employment, and, particularly in a place such as LaPorte County, a manifestation of the inalienable rights of adult citizens to exercise the freedom to enjoy what type of entertainment they may want to choose for themselves. Anyone familiar with the personalities of our "Founding Fathers," who had many history altering discussions in the "Public House," might well conclude that they would not be entirely averse to the establishment of a well-run, top-of-the-line establishment like the "Gentlemen's club"

being proposed by my clients. These businesses are part of the national landscape and actually have no adverse impact on any legitimately considered and researched issue. People may always disagree on these issues, but it is the freedom to disagree, without having such disagreement result in unnecessary censorship, that reflects the tolerance and strength of a free society.

In closing, I appreciate the opportunity of providing you with this information and I would welcome any questions or inquiries at any time you wish to contact me. I respectfully request that you do not adopt any more unconstitutional legislation. Thank you for your courtesies and consideration.

Sincerely,

Luke Lirot, Esq.

Enclosures

Cc: Clients