



LOCAL GOVERNMENT ADULT USE STUDIES

CONTRADICTIONARY AND INCONCLUSIVE FINDINGS

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ADULT USE STUDIES CONTRADICTORY OR INCONCLUSIVE FINDINGS

PREFACE

This document is one of a series of reports prepared in conjunction with the ongoing analysis of the alleged “predicates” that purport to establish that Adult Uses (sexually oriented businesses) cause “adverse secondary effects” that are unique or different from the impacts of generic commercial uses. In the mid-1970s, the City of Detroit created the myth that Adult Uses cause such unique adverse secondary effects in *Nortown Theatre, Inc. v. Gribbs*, 373 F.Supp. 363 (E.D. Mich. 1974); reversed *American Mini-Theatres, Inc. v. Gribbs*, 518 F.2d 1014 (6th Cir. 1975); District Court affirmed, Circuit Court reversed, *Young v. American Mini-Theatres, Inc.*, 427 U.S. 50, 96 S. Ct. 2440 (1976).

These alleged adverse secondary effects are disproportionately lower property values; higher crimes rates and/or calls for police service, higher owner or occupant turnover, and lower owner occupancy, and urban blight in general. Although this was a focus of the City’s presentation in *Nortown Theatre*, the businesses focused on the prior restraint issue, and did not make a significant effort to rebut the contention that Adult Uses cause unique adverse secondary effects.

^a Thus a myth was born and a fraud perpetrated on the Court. ^b

Subsequently, a large number of jurisdictions around the United States began to prepare “studies” to show that Adult Uses create the secondary effects alleged in *Nortown Theatre*. With few exceptions, most of these studies are methodologically flawed and without one iota, one scintilla of evidentiary or probative value. The studies which are exceptions do not find that Adult Uses cause unique adverse secondary effects.

(In fact, two of those findings, included herein, are likely the basis for the subsequent failure of most of the later studies to comport with the applicable legal and professional protocols. The empirical analysis in the 1977 Los Angeles Study^c found no evidence of adverse effects of Adult

^a Irving-Cwiek, Patricia, “Regulation of Adult Uses Through Zoning: Why *Young v. American Theaters* [sic] Still Works” *Planning & Zoning News*, March, 1984, p. 3.

^b “Fraud on court. A scheme to interfere with judicial machinery performing task of impartial adjudication, as by preventing opposing party from fairly presenting his case or defense. Finding of fraud on the court is justified only by the most egregious misconduct directed to the court itself such as bribery of a judge or jury to fabrication of evidence by counsel and must be supported by clear, unequivocal and convincing evidence. *In re. Coordinated Pretrial Proceedings in Antibiotic Antitrust Actions*, 538 F.2d 180, 195 [8th Cir. 1979]. It consists of conduct so egregious that it undermines the integrity of the judicial process. *Stone v. Stone*, Alaska 647 P.2d 582, 586., [Alaska, 1982.]” *Black’s Law Dictionary*, 6th Edition, West Publishing Company, St. Paul, MN 1990.

^c Los Angeles Department of City Planning, *Study of the Effects of the Concentration of Adult Entertainment Establishments in the City of Los Angeles*, Los Angeles, CA., June, 1977.

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1 Uses on property values. Likewise, the April, 1978, St. Paul, Minnesota Study^d states no fewer
2 than 14 times that sexually oriented Adult Uses do not cause “adverse secondary effects”. It
3 seems clear that once it emerged that properly conducted local government studies were not
4 going to produce the politically desired results, the governments began to prepare flawed studies
5 that allegedly reach the conclusion that sexually oriented Adult Uses do cause “adverse
6 secondary effects”. As demonstrated in this and the companion analyses by McLaughlin
7 Consulting Services, Inc., that conclusion is entirely unjustified. The “studies” that purport to
8 find evidence of harm impermissibly rely on “shoddy data and reasoning.”^e)
9

10 Subsequent empirical studies found no evidence of harm associated with sexually oriented Adult
11 Uses, as a result of which, local governments began to use other approaches to their “studies” in
12 an effort to justify content-based adult use zoning regulations. However, a number of local
13 government studies were done properly in whole or in part specifically find no such effects.
14 These findings, along with several additional “inconclusive” findings are reported herein.
15

16 Similar results have been reached by McLaughlin Consulting Services, Inc., by Dr. Daniel Linz
17 of the University of California, by Dr. Randy Fisher of the University of Central Florida and by
18 Dr. Terry Danner of St. Leo College. A number of other professionals have performed single
19 similar analyses and also found no evidence of harm.
20

21 Thus, this document presents the findings of the secondary effects studies undertaken by various
22 local governments that did, at least in part, comport with the relevant protocols, and whose
23 findings either contradict the findings of the other local government “studies” or are
24 “inconclusive”.
25

26 This is the first generation of this report, although it borrows heavily from an earlier McLaughlin
27 Consulting Services, Inc. document.^f As additional reviews of the local government studies are
28 undertaken, this summary will be updated. The studies are presented in chronological order.
29
30

^d Community Crime Prevention Project of the Minnesota Crime Control Planning Board and the Division of
Planning, Department of Planning and Economic Development, City of St. Paul, *Neighborhood Deterioration and the
Location of Adult Entertainment Establishments in St. Paul*, St. Paul Division of Planning, St. Paul, MN, April, 1978.

^e *City of Los Angeles v. Alameda Books*, 535 U.S. 425, 122 S.Ct. 1728 (2002).

^f McLaughlin, R. Bruce, AICP, MCIP, *Summary of Analyses of the Valid Portions of Local Government Adult
Use Studies*, McLaughlin Consulting Services, Inc., Indian Rocks Beach, Florida, April, 1997, revised through
September 1, 2003.

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REVISION HISTORY

This document is an adaptation of an analysis of the valid local government studies or portions thereof, [§] first prepared in 1997 and updated through September, 2003. A preliminary form of this document was prepared in February, 2004, but was not widely circulated. The more detailed document was first prepared in June, 2004, as part of a paper being prepared with Dr. Daniel Linz of the University of California, Santa Barbara.

This July, 2004, document represents the current analysis of the relevant documents, and will be updated as other documents emerge. It should be noted that the underlying documents are not widely circulated, or are widely circulated because of their overall "findings" with their specific, contradictory findings omitted. Thus, there may well be numerous similar documents which have been prepared, but which are not in circulation.

July, 2004: Kent, Washington; Bellevue, Washington; New Hanover County, North Carolina; *Preparing an Adult Use Licensing Ordinance*; Fulton County, Georgia, 2001 and Alachua County added.

May, 2005: El Paso, Texas added:

July, 2005: Waterbury, Connecticut Added

May, 2007, Lakewood Added

January, 2009, Kelly, *Everything You Always Wanted to Know* and Springfield, Missouri, added.

[§] *Ibid.*.

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ADULT USE STUDIES
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CONTRADICTIONARY FINDINGS

ST. PAUL, MINNESOTA, APRIL, 1978¹

The number of all adult entertainment establishments (all alcohol serving and sexually oriented establishments combined) present in neighborhoods in 1970 is significantly related to the neighborhood quality. That is, neighborhoods with higher crime rates and lower median housing values in 1970 tend to have more adult entertainment facilities located in them. Specifically, neighborhood quality in 1970 is related to the number of alcohol-serving establishments. When types of alcohol establishments are studied, neighborhood quality shows a relationship to the presence of establishments without live entertainment licenses, but has only a (statistically) marginal relationship to establishments with live entertainment licenses. **No relationship is found between neighborhood deterioration and the number of sexually oriented establishments present in 1970.**

A similar pattern of association appears in the 1976 analyses. The number of all adult entertainment establishments (alcohol-serving and sexually oriented combined) in 1976 is significantly related to neighborhood quality. As in 1970, this relationship is seen for the number of alcohol-serving establishments. The relationship between neighborhood quality and liquor-serving establishments in 1976 is present for both entertainment-and nonentertainment-licensed facilities (although the relationship is stronger for the establishments without entertainment licenses). Again, as in 1970, no relationship is found between neighborhood deterioration and the presence of sexually oriented establishments.

In summary, ... the presence of all adult entertainment establishments (alcohol-serving and sexually oriented combined) tends to be associated with greater neighborhood deterioration, in both 1970 and 1976. *However, when types of adult entertainment establishments are studied separately, this relationship is found only for the alcohol-serving establishments, not for sexually oriented facilities.* [Bold Emphasis Added; *Italic Emphasis in original*]²

These analyses show the same overall pattern of results as found in Stage I. For both 1970 and 1976, the presence of all adult entertainment establishments (alcohol-serving and sexually oriented combined) is related to neighborhood

¹ Community Crime Prevention Project of the Minnesota Crime Control Planning Board and the Division of Planning, Department of Planning and Economic Development, City of St. Paul, *Neighborhood Deterioration and the Location of Adult Entertainment Establishments in St. Paul*, St. Paul Division of Planning, St. Paul, MN, April, 1978.

² *Ibid.*, p. 9.

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ST. PAUL, MINNESOTA, APRIL, 1978 (cont.)

deterioration. As in Stage I, when adult entertainment establishment types are analyzed separately, the relationship is found only for alcohol-serving establishments. Neighborhood quality/deterioration is significantly related to the total presence of alcohol-serving establishments, and to the presence of establishments without live entertainment licenses. The relationship found between deterioration and entertainment-licensed establishments in Stage I does not persist after zoning and neighborhood age are controlled. **As in Stage I, there is no relationship, in either 1970 or 1976, between neighborhood deterioration and the presence of sexually oriented establishments.**

In summary, as shown in Table 2, a relationship between neighborhood quality and the number of all adult entertainment establishments (alcohol-serving and sexually oriented combined) located in the neighborhood does persist after introducing controls. This relationship is found for the alcohol-serving adult entertainment facilities studied but not for the sexually oriented establishments. These same patterns of association are present for both 1970 and 1976. *Therefore, the relationship between neighborhood deterioration and the presence of all adult entertainment establishments is more accurately viewed as a relationship between neighborhood deterioration and the presence of all alcohol-serving establishments.* [**Bold** Emphasis Added; *Italic* Emphasis in original] ¹

... As in Stage I and Stage II findings, a relationship is found to exist between all adult entertainment establishments (alcohol-serving and sexually oriented combined) and deterioration. When adult entertainment establishments are studied by type, relationships with deterioration are found for all alcohol-serving establishments and for alcohol-serving facilities without entertainment licenses. As in Stage II, the relationship between deterioration and entertainment-licensed establishments does not persist after legal and market influences are controlled. **There is no relationship between neighborhood deterioration in 1970 and the number of sexually oriented establishments in 1976.**

There is a relationship between neighborhood deterioration in 1970 and the subsequent number of all adult entertainment establishments (alcohol-serving and sexually oriented combined) in an area in 1976. Therefore, adult entertainment establishments tend to locate in neighborhoods which already suffer deterioration. [Emphasis Added] ²

¹ *Ibid.*, p. 11.

² *Ibid.*, pp. 13 - 14.

ADULT USE STUDIES CONTRADICTIONARY OR INCONCLUSIVE FINDINGS

ST. PAUL, MINNESOTA, APRIL, 1978 (cont.)

... Again, a pattern of relationship exists between the presence of all adult entertainment establishments (alcohol-serving and sexually oriented combined) and neighborhood deterioration. Deterioration in 1976 is related to the number of alcohol-serving establishments in 1970 and to the number of establishments without live entertainment licenses in 1970. As in Stage II analyses, deterioration is not related to establishments with entertainment licenses after controls for legal and market influences are introduced. And finally, there is no relationship between the presence of sexually oriented establishments in 1970 and level of neighborhood deterioration in 1976.

There is a relationship between neighborhood deterioration in 1976 and the number of all adult entertainment establishments (alcohol-serving and sexually oriented combined) in the area in 1970. Therefore, neighborhood deterioration tends to follow the location of adult entertainment establishments.

When the strengths of the cross-time relationships are compared, the 'deterioration-follows-establishments' relationships are consistently stronger than the 'deterioration-precedes-establishments, relationships. Thus, although certain types of adult entertainment facilities tend to locate in already deteriorated neighborhoods, there is a stronger influence in the opposite direction. There is a greater tendency for deterioration to follow the location of certain adult entertainment establishments.

In conclusion, as shown in Table 3, adult entertainment facilities tend to be established in areas of relative deterioration. A pattern of deterioration appears to follow the locations of certain types of adult entertainment establishments. This could be an increase in the pattern of deterioration already present. This cycle of 'deterioration-adult entertainment-deterioration' is seen only for areas in which there are alcohol-serving establishments. Sexually oriented establishments, when analyzed by themselves, do not show this cyclic pattern of relationship with neighborhood deterioration.¹

... No threshold effect is seen for sexually oriented establishments when studied by themselves.²

In summary, ... the number of adult entertainment establishments in a neighborhood has a strong threshold effect on associated neighborhood deterioration, for both 1970 and 1976. This means that the increase in

¹ Ibid., p. 13.

² Ibid., p. 18.

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deterioration associated with each additional establishment is not constant. The effect of each additional adult entertainment establishment on neighborhood quality depends upon the number of such establishments already present in the area. *The addition of an adult entertainment establishment to an area with more than one or two of these establishments already present is associated with a marked increase in neighborhood deterioration.* Then types of adult entertainment establishments are studied separately, **threshold effects are found** for the number of alcohol-serving establishments present, **not for the number of sexually oriented establishments.** [Bold emphasis added; *italic* emphasis in original] (p. 18)

It should be noted, while the presence of sexually oriented establishments taken by themselves does not show a significant association with neighborhood deterioration, these establishments tend to locate in areas which already reflect the effects of other adult entertainment establishments, making it difficult without further analysis to ascertain the unique contribution which sexually oriented establishments have on neighborhood deterioration.¹

¹ *Ibid.*, p. 21.

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WHITTIER, CALIFORNIA (1978)¹

... Item 5 shows that the rate of sales of housing is about the same (57% - 61%), but item 7 shows that the owner occupancy rate has increased from 64% to 84% in study area [Adult Use] one.²

... The one major factor to keep in mind in reviewing the data, however, is that not all of it can be isolated as being directly related only to the presence of adult businesses because of the variety of the factors influencing the study areas over the last ten years.³

¹ City of Whittier, California, Planning Department, *Staff Report, Amendment to Zoning Regulations, Adult Businesses in C-2 Zone with Conditional Use Permit*, Whittier, CA., January, 1978.

² *Ibid.*, p. 5.

³ *Ibid.*, p. 3.

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MINNEAPOLIS, MINNESOTA, 1980¹

The assumption that concentration of adult entertainment businesses have a direct negative impact on property values is **not borne out**. Controlling for general neighborhood quality indicates that, at the census tract level, **adult businesses as a group do not lead to lower housing value**

The assumption that crime at the census tract level has a direct link with adult businesses is confirmed, but weakly.

The most general finding is that while adult businesses, in general, do appear to be located in areas of higher crime and lower property values, **this does not indicate that they have caused these undesirable conditions**. Once in place, they may contribute to the maintenance of such conditions on a neighborhood level. [Emphasis Added]²

The current policy of avoiding concentrations of sex businesses can neither be supported nor contradicted.³

There is no evidence in either portion of the study that adult businesses cause neighborhood deterioration, although other measurement or analysis techniques may reveal such a connection. On the basis of this study, the alternative hypothesis that general neighborhood quality determines the kind and quality of businesses to locate in the neighborhood seems more plausible.⁴

¹ Minnesota Crime Prevention Center, *An Analysis of the Relationship Between Adult Entertainment Establishments, Crime, and Housing Values, Summary Report*, Minneapolis, Minnesota, October, 1980.

² *Ibid.*, pp. 13 - 15.

³ *Ibid.*, p. 17.

⁴ *Ibid.*, p. 21.

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KENT, WASHINGTON, (1982)¹

“[John] Mills [an appraiser selected for the survey because of this location in the Greenwood area of Seattle where the Ridgmont Theater (subject of *Northend Cinema v. City of Seattle*, 585 P.2d 1153 (Wash., 1978))] stated that he observed ‘no demonstrated impact on value of property around the theater area’ during the years when the Ridgmont showed adult movies. He stated that sales near the Ridgmont were ‘no different per square foot than comparable property several blocks away. He agreed that under certain conditions property values could descend as a result of an adult use locating nearby, especially in the case of residential property; however, such was not the case in the Greenwood area, in his opinion.”²

¹ Memo to “Adult Use Zoning Study File” From: Fred N. Satterstrom, Project Planner”, Subject: “Telephone Survey of Real Estate Appraisers Relative to the Impact of Adult Uses on Property Values in the Vicinity”, August 16, 1982.

² *Ibid.*

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SPRINGFIELD, MISSOURI¹

Analysis of Crime Statistics Crime statistics for three block areas surrounding existing adult entertainment establishments and recently closed businesses were reviewed to determine if a correlation could be established between the existence of that business and increased crime. Service calls for murder, rape, robbery, aggravated assault, prostitution/vice, and all other sex offenses were tabulated for the years 1983-1985 and the first six months of 1986. No positive correlation could be ascertained. The crime statistics are on file in the Advanced Planning Section office¹ of the Department of Community Development, 316 East Central.²

¹ Springfield Department of Community Development, *A Study of Land Use Regulation of Adult Entertainment Establishments*, Author, Springfield, Missouri, November, 1986.

² *Ibid.*, p. 10.

ADULT USE STUDIES CONTRADICTIONARY OR INCONCLUSIVE FINDINGS

BELLEVUE, WASHINGTON (1987)¹

As the permissible content of and activities within adult uses are defined on the federal and state level and since certain adult uses (massage parlors and dance halls) are already sufficiently regulated (to mitigate their secondary impacts) on the state and local level, staff recommends that this study deal only with the location of adult theatres and adult retail uses. Therefore, for the purposes and scope of this study and review, staff recommends that the uses to be considered for regulation be limited to Adult Motion Picture Theatres and Adult Retail Establishments.²

Within Bellevue, where there are currently three adult uses (Love Pantry, Love Works and R&R Adult toys), there appears to be no inability to lease adjacent store spaces nor deterioration to surrounding structures and areas. Please note, however, that these uses are widely dispersed and centrally located in established commercial areas.³

Presently, there are three adult entertainment uses in Bellevue *Love Works* and *Love Pantry* are strictly adult retail stores. *R and R Adult Toys* is an adult retail store which also contains an on-premises panoram. Both R and R Adult Toys and Love Pantry have video cassettes for rental.

An analysis of police reports for areas in which these uses are located show no higher incidence of crime than in adjacent areas without adult uses. All properties are centrally located in established commercial areas and all structures in which these uses are located are all in excellent condition as are the adjacent structures. Recently, *R and R Adult Toys* moved into a newly refurbished structure. These adult entertainment uses are not located adjacent to any schools, parks or facilities oriented primarily to children. All three sites are not adjacent to predominantly residential areas although there is a multifamily structure located across 120th NE

¹ City of Bellevue Planning Department; *A Study on the Need to Regulate the Location of Adult Entertainment Uses*; Author; Bellevue, Washington; September, 1987.

² *Ibid.*, p. 4.

³ *Ibid.*, P. 9.

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BELLEVUE, WASHINGTON (1987) (cont.)

from *Love Works*. However, please note that this residential use is separated from the Love Works site by a major street, by a restaurant facility and the surrounding area is also primarily commercial.

While there are no major secondary effects presently attributable to the adult uses located in Bellevue, a greater concentration of such uses or changes in location may cause secondary impacts to occur.¹

Adult entertainment uses do not always create negative secondary effects but many cities have experienced negative secondary impacts from adult entertainment uses.²

¹ *Ibid.*, p. 18.

² *Ibid.*, p. II-6.

ADULT USE STUDIES CONTRADICTIONARY OR INCONCLUSIVE FINDINGS

LANSING, MICHIGAN, 1988 ¹

STAFF

	Affected Area Change In Ass'd Val.	Comp. Area Change In Ass'd Val
<i>Pussycat</i>	221%	227%
<i>Danish News</i>	228%	223%
<i>Cinema X</i>	201%	209%
Averages	218%	222% ²

PERSTADT ³

<u>Area Type</u>	Identified a Concern About An Adult Use (%)	Identified a Concern About An Adult Use (#)
Adult Use 1	12.1%	4
Control 1	2.6%	1 ⁻
Adult Use 2	37.5%	18
Control 2	4.9%	2
Proposed Adult Use	16.0%	4
Overall	17.7%	33 ⁴

¹ City of Lansing Planning Department, *Impact of Adult Entertainment Uses: Measurement of Occupancy and Assessment Trends in Adjacent Residential Neighborhoods*; City of Lansing; April, 1988.

² *Ibid.*, pp. 1 - 2.

³ Perlstadt, Harry, Ph.D., *Preliminary Report Revised: The Social Impact of Adult Entertainment Facilities*; Department of Sociology, Michigan State University, East Lansing, Michigan, June, 2, 1987.

⁴ *Ibid.*, synthesized.

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NEW HANOVER COUNTY, NORTH CAROLINA (1989)¹

In general, unincorporated New Hanover County has not experienced any major problems with adult entertainment establishments.²

¹ New Hanover County Planning Department, *Regulation of Adult Entertainment Establishments in New Hanover County*, Wilmington, NC, July, 1989.

² *Ibid.*, p. 4.

ADULT USE STUDIES
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ST. CROIX COUNTY, WISCONSIN, (1993)¹

In general, unincorporated St Croix County has not experienced any major problems with adult entertainment establishments.²

¹ St. Croix County Planning Department; *Regulation of Adult Entertainment Establishments in St. Croix County*; Author; St. Croix, Wisconsin; September, 1993.

² *Ibid.*, p. 3.

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BENTON COUNTY, MINNESOTA ¹

“Lynn Machula outlined some of the concerns from minutes of the previous meeting. He reported that he spoke with assessors from Anoka County (City of Ramsey has adult use) and Morrison County (adult use near entrance to Camp Ripley). They both said there was no appreciable negative impact on the value of neighboring properties.” ²

¹ Benton County, Minnesota, Planning Commission, Minutes, March 24, 1994, Item 4, author, Foley, MN, 1994.

² *Ibid.*

ADULT USE STUDIES CONTRADICTIONARY OR INCONCLUSIVE FINDINGS

NEW YORK CITY, NEW YORK, (1994)¹

Sidewalk and street frontages on the survey and control blockfronts in each of the six study areas were studied for noise, traffic, sanitation and loitering. Caution should be exercised in generalizing from this survey. Observations were made during the cold winter months, and over a brief amount of time. Cold weather will discourage loitering because few people want to remain outdoors for extensive periods under such conditions. Surveyors did not spend significant amounts of time observing each street element, although observations were made more than once on various days of the week, at different times of the day or night, and on numerous blockfronts.²

The community liaison or beat officer was interviewed for each of the six study areas.

When the survey and control blockfronts were compared for criminal complaints and allegations, the officers generally did not link higher incidents with adult uses. Three officers believe that criminal allegations are higher on the survey blockfronts compared to the control blockfronts but, in two of these cases, the higher incidence of allegations was attributed by them to uses unrelated to the adult use. In a single instance, an officer replied that the adult entertainment establishment located in the study area has some effect on crime, and then 'only rarely'. Four of the six officers thought the adult uses have no effect on crime.³

Other land use related criteria could affect the analysis. For example, the location of the paired control and survey blockfronts was analyzed for proximity to transportation facilities such as subway stations and limited-access highways. These facilities bring concentrations of people into an area, and by doing so may affect the incidence of criminal complaints. In general, the blockfronts located closest to subway stations and a limited-access highway ramp had more criminal complaints than blockfronts located farther away. Excluding from this analysis one of the paired blockfronts in Study Area 5 that is distant from subway access, and Study Area 6, because there were too few complaints to consider, the analysis found that in each of the other study areas the number of criminal complaints was greater near the transportation facilities, notwithstanding the location of an adult use.⁴

¹ City of New York, Department of City Planning, *Adult Entertainment Study*, New York, November, 1994.

² *Ibid.*, p. 49.

³ *Ibid.*, p. 53.

⁴ *Ibid.*, p. 56.

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NEW YORK CITY, NEW YORK, (1994) (Cont.)

PROPERTY VALUES ¹

Study Area	Percentage Increase 1986 - 1992	
	Survey Blocks	Control Blocks
1.	68	165
2.	18	134
3.	164	155
4.	78	19
5.	153	149
6.	202	88

The analysis of trends in assessed valuation relative to adult entertainment was inconclusive. It would appear that if adult entertainment uses have negative impacts, they are overwhelmed by other forces that increased property values, at least as measured by assessed values. Even at the small scale of the survey blockfront, there is a wide diversity in the assessed value trends ranging from an increase of more than 18 percent to an increase of more than 200 percent over the period of analysis, strongly suggesting the importance of other factors. The influences on assessed value that the city's assessors take into account are numerous and include the sale prices of similar comparable properties adjusted for differences in size, age, and location. While the total assessed values on the survey blockfronts may be influenced to some extent by the presence of adult entertainment uses, demonstrating such effects is very difficult. ²

The analysis of criminal complaint data and property assessed valuation data was less conclusive than the surveys. Regarding criminal complaints, it appears that land uses other than adult entertainment establishments, e.g. subway station access, have a far stronger relationship to criminal complaints. It was not possible to isolate the impacts of adult uses relative to criminal complaints. ...

Comparisons of percentage changes in assessed valuations between 1986 to 1992 [sic] for the study areas, survey and control blockfronts, community district, and borough, did not reveal any significant relationship. It would appear that the negative impacts of adult entertainment uses on property values that were found in other studies were overwhelmed by forces that increased property values overall, at least as measured by assessed values. ...

¹ *Ibid.*, Synthesized from pages 57 - 58.

² *Ibid.*, p. 57.

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NEW YORK CITY, NEW YORK, (1994) (Cont.)

In some cases, particularly in study areas with only one adult entertainment establishment, the DCP survey did not yield conclusive evidence of a direct relationship between the adult use and the urban ills affecting the community. ...¹

¹ *Ibid.*, p. 65.

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TIMES SQUARE, NEW YORK, (1994)¹

Changes in Property Values²

Area	% Increase
42 nd Street Subject Block (Impacted by the 42 nd Street Redevelopment Project, and Condemnation Blight)	48%
New York City	52%
42 nd Street Control Block	55% (Although the difference between the study block and the control is marginally significant from a statistical standpoint, the progression of these three values is not statistically significant.)
Times Square BID	60%
Manhattan	61%
Eighth Ave. Subject Block	65%
Ninth Avenue Control Block	91%

There may be many reasons for a property's assessed value to have changed at a rate different than those of the rest of the block, or the general area. **One cannot automatically assume any one reasons, such as the proximity of adult use establishments.** For example, the physical condition of the property may have deteriorated, or the property may be at a location undesirable from the point of view of potential retailers. [Emphasis Added]³

While it may well be that the concentration of adult use establishments has a generally depressive effect on the adjoining properties, as a statistical

¹ Insight Associates, *Report on the Secondary Effects of the Concentration of Adult Use Establishments in the Times Square Area*, Times Square Business Improvement District, New York City, New York, April, 1994.

² *Ibid.*, p. 25.

³ *Ibid.*, p. 26.

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TIMES SQUARE, NEW YORK, 1994 (cont.)

matter we do not have sufficient data to prove or disprove this thesis. It may also be that simply the presence of adult use establishments is subjectively viewed by assessors as a factor that necessarily reduces the of an property [sic]. In short, assumptions may influence assessments. [Emphasis Added]¹

One cannot assert that there is a direct correlation between these [crime] statistics and the concentration of adult use establishments on 42nd Street between Seventh and Eighth Avenue[s], or along Eighth Avenue between 45th and 48th Streets. But there is very definitely a pointed difference in the number of crime complaints between these study blocks and their controls. [Emphasis Added]²

[the concentration of prostitution arrests on Eighth Avenue (which is less than Ninth Avenue between 45th and 48th Streets)] ... may be related to [the] presence of adult use establishments along Eighth Avenue, but may also be related to traffic and pedestrian patterns, proximity to the Port Authority Bus Terminal, and proximity to Times Square itself. ...³

¹ *Ibid.*

² *Ibid.*, p. 32.

³ *Ibid.*, p. 34.

ADULT USE STUDIES
CONTRADICTORY OR INCONCLUSIVE FINDINGS

PHOENIX, ARIZONA, (1994)¹

The findings showed that the adult businesses had no higher level of crime than the control areas and in some cases a lower incidence of crime. Interviews with businesses and residents within the areas showed little difference between the control and study areas. Interviews with police officers who regularly patrol the areas showed little difference in the problems encountered between SOBs and other late-night businesses.²

¹ City of Phoenix Planning Department, *Adult Business Study: Impacts in Late Evening/Early Morning Hours*, Phoenix, Arizona, 1994.

² Summarized in: Malin, Peter, MAI, Letter Report: *The Analysis of the Effects of Sexually Oriented Businesses (SOBs) Which Offer or Advertise Live, Semi-nude Entertainment to the Public on the Surrounding Properties and on the Neighborhoods in Which They Are Located*, The Malin Group, Dallas, TX, December 14, 1994.

ADULT USE STUDIES
CONTRADICTORY OR INCONCLUSIVE FINDINGS

EVANSVILLE, INDIANA, (1995)¹

In conclusion, there is no evidence that the introduction of the Regina's House of Dolls adult entertainment club adjacent to the Hampton Court Condominium project had any measurable long term effect on the property values or on the rate of sales of HCC.²

All the studies indicated similar findings. It appears that the presence of an adult entertainment club does cause some negative reaction from nearby residents, tenants, property owners and some government officials. The advertising which at times can be risqué and loud noise caused by patrons are the primary concerns. However, while this may create some inconvenience and reduces the amenities of the neighborhood, it does not appear to have a measurable long term impact on the market value or rental value of nearby property. The exception to this **may** be the immediately adjacent property which could be adversely impacted dependent upon the use buffer, actual distance, pedestrian and vehicular traffic patterns. This impact though would be very similar to that of a busy neighborhood bar.

...

- o Possible influence on immediately abutting commercial buildings but no influence further away. Impact appears to be in the form of higher vacancy for some abutting property types.³

¹ Matthews, C. Davis, MAI, SRPA, SRA; *Impact Study of Adult Entertainment Clubs on Surrounding Property Values, Evansville, Indiana*; David Matthews Associates; Evansville, Indiana; September, 1995.

² *Ibid.*, p. 9.

³ *Ibid.*, pp. 13 - 15.

ADULT USE STUDIES
CONTRADICTIONARY OR INCONCLUSIVE FINDINGS

FULTON COUNTY, GEORGIA, 1997¹

Based on this statistical study of calls for service and reported crime at adult entertainment establishments, there is no statistical correlation that shows that there is an increase in crime at adult entertainment establishments that serve alcoholic beverages. However, there is a statistical correlation that would indicate that there is greater instances [*sic*] of calls for service and crime at non-adult entertainment establishment that serve alcoholic beverages.²

¹ Fuller, Captain Ron and Lt. Sue Miller; *Fulton County Police: Study of Calls for Service to Adult Entertainment Establishments which Serve Alcoholic Beverages, June, 1993 - May, 1997*; Fulton County Police Department, Atlanta, Georgia; June 13, 1997.

² No page number.

ADULT USE STUDIES
CONTRADICTORY OR INCONCLUSIVE FINDINGS

EVERYTHING YOU ALWAYS WANTED TO KNOW
ABOUT REGULATING SEX BUSINESSES XXX¹

... As a matter of fact, there is a good deal of evidence that impacts
on the crime rate and on property values are minimal for a single,
well-managed sexually oriented business, separated from other
such businesses. ...²

¹ Kelly, Eric Damien, FAICP, and Connie Cooper, *Everything You Always Wanted to Know about Regulating Sex Businesses x x x*, American Planning Association, Planning Advisory Service, PAS Report 495/496; Chicago, Illinois.; 2000.

² *Ibid.*, p. 135.

ADULT USE STUDIES
CONTRADICTORY OR INCONCLUSIVE FINDINGS

PREPARING AN ADULT USE LICENSING ORDINANCE (2000)¹

We found no evidence that the sale or rental of books, magazines, newspapers, or videos results in the operational problems that licensing is intended to control. Because these are forms of communication that generally enjoy the highest level of First Amendment protection, courts will subject regulations affecting them to "strict scrutiny". The lack of evidence of operational problems with such stores means that the licensing regulation is likely to fail such scrutiny. We do recommend that your zoning ordinance define media stores that include adult materials and specify how access to these materials will be controlled.²

¹ Kelly, Eric Damien, and Connie B. Cooper, "Preparing an Adult Business Licensing Ordinance", *PAS Memo*, American Planning Association, Chicago, IL, November, 2000.

² *Ibid.*, p. 1. Kelly and Cooper initially exempted from this exception what they call "sex shops". An Adult Use can become what Kelly and Cooper call a "sex shop" under certain circumstances, including the sale of adult novelties. There is a great deal of history to this line of thinking, but none of the other literature makes this distinction, treating all take-home only Adult Uses alike, without regard to the specific product offered for take-home only consumption. As set forth in Kelly's Alachua County Study, below, this distinction is being re-thought by the Authors.

ADULT USE STUDIES
CONTRADICTIONARY OR INCONCLUSIVE FINDINGS

FULTON COUNTY, GEORGIA, 2001¹

A preview of the statistical data concluded a lower number in calls for service to adult entertainment establishments who served alcoholic beverages than those non-adult entertainment establishments who served alcoholic beverages. The review also captured no significant increase in part one crimes at adult entertainment establishment that serves alcoholic beverages. In reviewing the type of calls for service, the police responded to 998 calls for service to adult entertainment establishment who served alcoholic beverages and 2,109 calls for service to non-adult entertainment establishment who served alcoholic beverages. The tri-annual statistical data of general calls for service 5,556,2555. The most frequent calls for service for adult entertainment establishments who served alcoholic beverages are as follows:

Information for Officer – 16%, Business Checks – 15%, Investigate Suspicious Person – 14%, ADT Alarm – 11%, Other Type of Incidents – 43%, Part I Crimes 1% (Burglary 4, Robbery 5, and Rape 1).

The reviewed data suggests that adult entertainment establishments who served alcoholic beverages did not have a significant impact on the police department as it relates to an increase in calls for police service, nor an increase in crime as a secondary effect. Based on this statistical analysis of calls for police service and reported crimes at adult entertainment establishments that serve alcoholic beverages; no statistical correlation indicated an increase in calls for service or reported crimes at these six establishments. However, the statistical data indicated that non-adult entertainment establishments who served alcoholic beverages had a higher rate of calls for service than adult entertainment establishment who served alcoholic beverages. The statistics from January 1, 1995 to May 31, 1997 versus the statistics from January 1, 1998 to December 31, 2000 indicated that the Fulton County Police Department increased calls for police service by 27.1% to adult entertainment establishments who served alcoholic beverages and 29.7% to non-adult entertainment establishments who served alcoholic beverages. The data does not address other secondary factors that may influence te calls for service at either type of establishment.²

¹ Phifer, W. D., Major, *Adult and Non-Adult Entertainment Establishments, Statistical Analysis from 1/1/98 to 12/31/00*, Fulton County Police Department, Atlanta, GA, March, 2001.

² *Ibid.*, Part I, grammar and lexis as per original.

ADULT USE STUDIES
CONTRADICTIONARY OR INCONCLUSIVE FINDINGS

ALACHUA COUNTY, FLORIDA (2003)¹

Discussing a well-publicized adult cabaret located in unincorporated Alachua County, the author states:

This is a café in a tavern or bar format without alcoholic beverages. This is an older building adapted from an earlier, highway oriented use; the space has been expanded with the addition of two modular units. A cashier controls entrance [*sic*] and collects the cover charge. There is a small display of sex toys video tapes and CDs behind the cashier; this small retail section also includes t-shirts promoting Café Risque. ...

This business is well-known throughout the region because of its extensive use of billboard advertising along I-75.

During our visits, the establishment had the general character of a neighborhood bar without clothes. Servers are scantily clad and may also appear at other times as dancers. Dancers dress and undress on stage and then wander out to visit with customers in the audience. Although a dancer offered table and lap dances, it was an offer more than a sales pitch. Lap dances occur in a curtained booth in a room between the bar and a management office; a sign by the booth says that the dances are "not intended to produce orgasm". On one visit, we were quoted a price of \$30. for a one-song lap dance, \$50 for two songs. We were told that the food was plain but good and confirmed that on one visit. Although the building is older, it is clean and well-maintained. The parking lot is clean and well-maintained. There is apparently a lounge and shower area for truckers in one of the modular units attached to the building.

From the perspective of secondary effects and adverse land-use impacts, this is a reasonable location for a sexually oriented

¹ Kelly, Eric Damien, *Regulation of Sexually Oriented Businesses in Alachua County: Field Survey, Analysis and Recommendations*; Duncan Associates, Muncie, Indiana, August, 2003.

ADULT USE STUDIES
CONTRADICTORY OR INCONCLUSIVE FINDINGS

ALACHUA COUNTY, FLORIDA, (Cont.)

business. It is in an intensely commercial area. There is virtually no possibility of casual pedestrians accidentally encountering the establishment. The building itself is well back from the public right-of-way so drivers going by see little more than the name and general advertisement on the building. ...

Sexually oriented businesses with live entertainment have more potential for negative secondary effects and adverse land use impacts than other types of such businesses. Good management can do a great deal to mitigate such impacts. Based on our limited observations to date, this appears to be a well-managed establishment. We often recommend licensing as a means of ensuring that such establishments will maintain the kind of control of operations that appear to exist at Café Risque. Unless we find additional data to contradict our findings to date, it does not appear that a licensing ordinance is urgent for Alachua County, as long as the good management practices at this establishment continue and there are no other establishments with live entertainment.¹

And discussing a store called *Modern Tobacco* which is described as a tobacco store with a controlled-access back-room (comprising about one third of the area of the store), in which both adult media and adult novelties are offered for sale, the authors state:

... Typically we have recommended that any outlet that includes a significant number of sex toys mixed with other sexually oriented products (in this case, magazines, videos and DVDs) be treated as a "sex shop" and be subject to additional zoning restrictions placed on such businesses. We may revise that recommendation here, because this appears to be a business that handles sexually oriented material with a minimal impact on the community. ...²

¹ *Ibid.*, pp. 7 - 8.

² *Ibid.*, pp. 13 - 14.

ADULT USE STUDIES
CONTRADICTORY OR INCONCLUSIVE FINDINGS

INCONCLUSIVE FINDINGS

LOS ANGELES, CALIFORNIA, (1977)¹

... it cannot be concluded that adult entertainment businesses have directly influenced changes in the assessed value of commercial and residential properties in the areas analyzed.²

... However, in the staff's opinion there would appear to be insufficient evidence to support the contention that concentrations of sex-oriented businesses have been the primary cause of these patterns of change in assessed valuations between 1970 and 1975. [Emphasis in Original]³

- Increases in assessed values in both subject and control areas, with the increase in the subject area being less than the control area in two of three comparisons;⁴
- In two of the three areas, the land values in the subject areas fared better than that the land values in the control areas;⁵
- commercial property fared better in two control areas than it did in the subject areas;⁶
- Other control and subject areas fared differently, in ways not readily explained.⁷

¹ Los Angeles Department of City Planning; *Study of the Effects of the Concentration of Adult Entertainment Establishments in the City of Los Angeles*; City of Los Angeles; Los Angeles, California; June, 1977.

² *Ibid.*, P. 2.

³ *Ibid.*, PP. 25 - 26.

⁴ *Ibid.*, p. 24.

⁵ *Ibid.*, Table IV.

⁶ *Ibid.*, Table IV-A.

⁷ *Ibid.*, p. 25.

ADULT USE STUDIES
CONTRADICTORY OR INCONCLUSIVE FINDINGS

INDIANAPOLIS, INDIANA, 1984¹

The anomalies demonstrated in the comparison of the Study Area with the general population and the Control Area will not, in themselves, establish a causal relationship between Adult Entertainment Businesses and the crime rates in the immediate area surrounding them²

¹ Division of Planning, Indianapolis Department of Metropolitan Development; *Adult Entertainment Businesses in Indianapolis, An Analysis*; Author; Indianapolis, Indiana; January, 1984.

² *Ibid.*, p. 18.

ADULT USE STUDIES
CONTRADICTORY OR INCONCLUSIVE FINDINGS

AUSTIN, TEXAS¹

The results of this study indicate that there **can** be significant detrimental impacts on neighborhoods located near adult businesses. An analysis of sex-related crime rates in areas with adult businesses (Study Areas) revealed rates approximately two to five times higher than city-wide averages. Control Areas, which contain no adult businesses but have similar locations and land uses as the Study Areas, were found to have sex related crime rates approximately the same as city-wide rates. Moreover, sex-related crime rates in Study Areas with more than one adult business were found to be 66% higher than Study Areas with one adult business. [Emphasis Added]²

The results of the assessment of the impact of adult businesses on property values suggests that there **may** be a severe decline in residential property values located within one block of an adult business site. There is an indication, based on the subjective opinions of real estate appraisers and lenders, that the introduction of an adult business into an area adjacent to family-oriented, owner-occupied residential neighborhoods may precipitate a transition to a more transient, renter-occupied neighborhood. The results of the survey of appraisers and lenders closely parallels the results of a similar survey conducted in Los Angeles, California and nationwide surveys conducted by the Division of Planning in Indianapolis, Indiana. [Emphasis Added]³

¹ Austin City Council; *Report on Adult Oriented Businesses in Austin*; Author; Austin, Texas; May, 1986.

² *Ibid.*, p. 32.

³ *Ibid.*

ADULT USE STUDIES
CONTRADICTIONARY OR INCONCLUSIVE FINDINGS

EL PASO, TEXAS¹

“The study was undertaken to examine what, if any, negative impacts were created by [Adult Uses] to the social and land use characteristics of the area in which they are located. Additionally, the study examined the factors of crime incidence to show the deviation from normal rates for this population. Analyses of land use characteristics were made to show any negative performance of the real estate market in areas where adult entertainment is offered. **While the study should not be construed as proving that adult entertainment businesses are the causal effect of these negative impacts, the study will show that these uses are an important variable in each instance of comparison.**” [Emphasis Added]²

¹ El Paso Department of Planning Research & Development, *Effects of Adult Entertainment Businesses on Residential Neighborhoods*, prepared for the Office of the City Attorney, El Paso, Texas, September, 1986.

² *Ibid.*, p. 2.

ADULT USE STUDIES
CONTRADICTORY OR INCONCLUSIVE FINDINGS

WATERBURY, CONNECTICUT¹

The studies also have a lot of evidence about increasing some crime and the various types of crime, however my conversations with the Police Department said they really didn't see much of a difference between the existing adult establishments and an increase in crime, so I am not even offering that as a justification.²

¹ Keels, Angela M., City of Waterbury Zoning Commission, Public Hearing/Regular Meeting, Thursday, February 26, 2004 at 7:00 p.m., City of Waterbury, City Clerk's Office, undated.

² *Ibid.*, p. 17.

ADULT USE STUDIES
CONTRADICTORY OR INCONCLUSIVE FINDINGS

LAKEWOOD, WASHINGTON

From: David Bugher
To: DHEID
Subject: Adult businesses

Well, I have a depressing statistic. It's good in one way and bad in another. Since incorporation, the City has amassed 15,415 reported criminal incidences. Get this, 25% occurred along a 300 acre strip of Pacific Highway and South Tacoma Way. How many incidences were within 1,000 feet of all adult entertainment establishments? 400! A lousy 400! That's only 2.6% of the total! Jack Burns will love this.

What bothers me is that many communities used the secondary effects of adult businesses (i.e. crime) to justify stricter codes. This element just doesn't seem to be present. Sure, there is a great amount of crime in the area, but it is associated with I-5 and low income neighborhoods along I-5.

I have tried working this issue from a number of different angles. I have tried to focus the types of criminal incidences (rape, burglary, vandalism) to see if such a corollary existed. It doesn't. I know this isn't what people want to hear, however that is what is reported.

Dave ¹

¹ Undated E-mail from David Bugher, Community Development Director for the City of Lakewood, Washington, to Daniel Held, City Attorney for the City of Lakewood, Washington, disclosed in discovery in the case of Byran Clark v. City of Lakewood, Case No. C98-5341 RJB (W.D. Wash.).

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CONTRADICTIONARY OR INCONCLUSIVE FINDINGS

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