

Court Upholds Adult Club Stand

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PLANT CITY - The city has won round one in its legal battle to keep an adult club from opening at U.S. 92 and County Line Road, but the war may be far from over.

Taurus Property Ventures is appealing a federal magistrate's recommendation to dismiss much of the company's case against the city.

The lawsuit stems from the city's refusal to grant Taurus a permit to offer adult entertainment that could include nude dancers. The club's application was denied because its proposed site in vacant building is about 650 feet from Showgirls Men's Club, closer than allowed under a city ordinance in place at the time.

The city has since revised the 1970s-era ordinance, more clearly defining requirements and updating language.

Taurus' lawsuit asked the federal court to declare the original ordinance unconstitutional and to issue a temporary injunction forcing the city to approve the club's permit.

But U.S. Magistrate Mark Pizzo agreed with the city's arguments that the new adult-entertainment ordinance renders most of Taurus' lawsuit invalid because it refers to an ordinance that no longer exists.

"The city's delighted with what the report says," said Tampa attorney Tom Scarritt, who is representing the city.

Taurus' objections to Pizzo's recommendations, filed Thursday, claim the new ordinance doesn't count.

"We said that ordinance was improperly and illegally enacted. I killed that horse 10 times over in the [initial] pleadings and he doesn't even address it," said Orlando attorney Steve Mason, who is representing Taurus.

Scarritt suggested Pizzo may not have found the arguments worth discussing.

"The fact that he didn't even mention it doesn't bode well for this lawsuit," he said.

Pizzo's report, issued Dec. 21, does address Taurus' contention that the city had acted in bad faith and hastily enacted the ordinance to thwart the lawsuit.

Pizzo wrote: "Stripped to their logical core, Plaintiff's ... claims are absurd. No zoning official ever assured Plaintiff its permit would be approved. To the contrary, the city timely rejected the application. Undaunted, the Plaintiff boldly signed a lease, shelled out over \$10,000 in deposits, rent and sales tax, and assumed liability for more."

Although Pizzo recommended that most elements of the lawsuit be dismissed, he said it would be premature to dismiss the company's claim for damages.

Pizzo wrote: "Any damages Plaintiff suffered ... are likely nominal, but that is enough to avoid mootness."

The magistrate also recommended the case be placed on hold until another case before the 11th Circuit Court of Appeals in Atlanta resolves the issue of whether Taurus has standing in the case at all.

Pizzo's report and Taurus' appeal of his recommendations will go to U.S. District Judge Steven D. Merryday in the coming weeks. The judge can accept, reject or revise the magistrate's suggestions.