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Appellate Court Backs City's Stand Against Adult Club

By RAY REYESThe Tampa Tribune

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PLANT CITY - Taurus Property Ventures has hit another legal roadblock in its pursuit to open an adult club at U.S. 92 and County Line Road.

On June 30, the U.S. 11th Circuit Court of Appeals in Atlanta upheld a federal magistrate's recommendation to deny Taurus a temporary injunction that would have forced the city to approve a permit for the adult club, which might have offered nude dancers.

The appeals judges' decision also supports the city's arguments that a new adult-entertainment ordinance nullifies Taurus' lawsuit because the suit refers to an ordinance that no longer exists.

Despite the 11th Circuit's decision, Steve Mason, the Orlando attorney representing Taurus, said he plans to keep his client's lawsuit afloat.

"As the so-called captain of this ship, I haven't given up the boat just yet," Mason said Thursday.

Taurus' lawsuit against the city claims the original ordinance, which was used to deny the adult-use permit, was unconstitutional. The club's application was denied in spring 2005 because the owners proposed to establish their business 650 feet from Showgirls Men's Club, closer than allowed under the city ordinance in effect at the time.

The city in August revised the 1970s-era adult-use ordinance by clearly defining requirements and updating language after Taurus filed its lawsuit and asked for a temporary injunction. The new ordinance would also prohibit the club in its proposed location, a former truck repair shop.

"I honestly thought that we had solid issues," Mason said. He plans to file a motion for a rehearing and clarification of the language written in the appeals judges' decision.

Mason said he thinks a sentence in the written ruling regarding the legality of the city revising the ordinance is unclear. The judges wrote: "Taurus' argument that the amended ordinance is void ... is not supported by record evidence that the process by which the ordinance was enacted was legally deficient."

Mason said that to him, it sounds as if the three appeals judges felt that Taurus simply did not present enough facts or arguments to support its position.

"At best, it's confusing," Mason said of the passage. "At worst, it's wrong. That bothers me."

Taurus' motion for a rehearing can be granted, the language could be clarified or the appeals judges could just "summarily deny it and not do anything," Mason said.

Tampa attorney Tom Scarritt, who represents the city, said he is "extremely pleased" with the decision and

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that the denial of the permit was found "constitutionally sound."

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