STUDY OF SEXUALLY ORIENTED BUSINESSES

FINAL REPORT

LAPORTE COUNTY, INDIANA

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Introduction

For reasons that are not entirely clear, the sex business is growing – at least geographically. Communities that have never had such businesses, or have not had one in many decades, are now seeing applications for zoning approvals and business licenses for such businesses.

A unique regulatory aspect of sex businesses that differentiates them from many other land uses, other than signage, is that some sex businesses are protected to some extent under the First Amendment's freedom of expression provisions. Thus, local governments cannot regulate protected sex businesses specifically because they do not like "those kinds of businesses" or the explicit images or messages the materials or performances convey – but local governments can adopt regulations that mitigate the "negative secondary effects" of such businesses.

This Study of Sexually Oriented Businesses examines the current activities and business operations of sex businesses located in and in proximity to LaPorte County; reviews the secondary effects of sexually oriented businesses in general; and makes recommendations as to the zoning and licensing provisions that could help mitigate these secondary effects and better manage operational practices related to sexually oriented businesses that might locate within LaPorte County, Michigan City and the City of La Porte.

Context

Regulation of sexually oriented businesses has become one of the more challenging tasks facing local governments today. The regulation must balance legitimate community concerns about the businesses with the First Amendment rights of the business owners and customers.

Courts increasingly demand that local governments base their zoning and licensing regulations of sexually oriented businesses on documented secondary effects of those businesses. Regulation of sexually oriented businesses is made more complex politically by society's division and ambivalence over this issue. Most regulations of sexually oriented businesses are directed at topless bars, XXX video stores and other establishments devoted almost entirely to sexually oriented activities. However, many well-regarded merchants include in their stock a measurable proportion of arguably sexually oriented material; such businesses include the video rental stores with "over-21 only" backrooms, news dealers with isolated racks of adult magazines and a variety of retail stores that may include certain sexually oriented items.

Although those who take the most negative view of sexually oriented activities and materials would lump all such businesses together, this creates an impossible situation, legally and politically. First, any broad limitation on any business with any "sexually oriented" materials or activities would ultimately apply to every bookstore, every movie rental store, every news dealer and, arguably, a variety of other merchants, such as Victoria's Secret, which trades on the fringes of this market in some of the nation's toniest malls.

Although those who would like to see such materials and activities eliminated completely from a community, the fact remains that there are technically x-rated scenes in major works of literature, and brief nudity and sexual activity in Academy-award-winning motion pictures as well as on many television channels.

The community must seek balance in how it regulates land uses. Regulation of sex businesses is one of the most litigated areas of land-use law today. Communities that have tried to bar most or all sex businesses have generally lost court challenges to their regulatory schemes. In that context, a community must make reasonable provisions for the existence of some fully sexually oriented businesses; on the other hand, it is also clear that a community need not necessarily allow every such establishment to offer the full range of sexually oriented products or activities that its proprietors might like to offer or to allow such businesses to locate in neighborhood shopping centers. The courts have also recognized that an sexually oriented business (such as a book store) is different from other businesses offering similar products that are not sexually oriented; thus, the community can adopt and implement different zoning and licensing regulations for such businesses, provided that the effect of them is not a complete ban on all such businesses.

The courts have supported sexually oriented business ordinances that are drafted to reduce the **negative secondary effects** of sexually oriented businesses, but that do not infringe upon the First Amendment rights of these businesses. In one of the earliest major court decisions involving the regulation of sexually oriented businesses, *Young v. American Mini-theaters,* 427 U.S. 50, 96 S. Ct. 2440, 49 L. Ed. 2d 310 (1976), the Supreme Court upheld the City of Detroit's zoning regulations that required specified "regulated uses" (most were sexually oriented businesses) be separated from other such uses by at least 1,000 feet. The distance separation was supported by a study completed by a sociologist at Wayne State University who found that a concentration of such regulated uses created negative secondary effects. Nearly thirty years later, when Los Angeles was defending a different separation requirement for sex businesses, that city, too, was able to offer to the courts a careful study of negative secondary effects, based in significant part on local experience. *City of Los Angeles v. Alameda Books, Inc.*, 122 S. Ct. 1728, 152 L. Ed. 2d 670 (U.S. 2002).

The Supreme Court has imposed a significant condition on this interpretation of the First Amendment. It will interpret regulations meeting these standards as "time, place and manner" regulations of speech (which are far easier to defend than content-based ones) only if the regulations allow "adequate alternative avenues" for the communication within the community. In the context of sexually oriented businesses, that means that there must be available sites for protected sex businesses in the community. The Court first dealt with this issue in *Playtime Theaters v. City of Renton,* 475 U.S. 41, 106 S. Ct. 925, 89 L. Ed 2d 29 (1986). See, also, *Schad v. Borough of Mt. Ephraim,* 452 U.S. 61, 67, 101 S. Ct. 2176, 68 L. Ed. 2d 671 (1981), where a small town tried to ban all live entertainment – without regard to message – and the Supreme Court held that the ordinance was unconstitutional. Ordinances that appear to allow such businesses but that actually preclude them because there are no sites that meet all of the "buffer" and separation requirements do not count. See *Franklin Jefferson, Ltd. v. City of Columbus*, 244 F. Supp. 2d 835 (S.D. Ohio

2003). See, also, the decision in *North Ave. Novelties v. City of Chicago*, 88 F.3d 441 (7th Cir. Ill. 1996), rehg denied *en. banc* 1996 U.S. App. LEXIS 17720 (7th Cir. Ill. July 18, 1996), *cert. denied* 519 U.S. 1056, 117 S. Ct. 684, 136 L. Ed. 2d 609 (1997), where the Seventh Circuit (which includes Indiana) discussed this principle in upholding a Chicago ordinance that provided between 22 and 55 additional sites for such businesses in the city. Ordinances that allow such businesses only through special use or conditional use review also do not qualify. *FW/PBS, Inc. v. City of Dallas*, 837 F.2d 1298 (5th Cir. 1988), modified, 493 U.S. 215 (1990). Thus, one of the political challenges of adopting a Constitutional, effective set of regulations for sexually oriented businesses is that the regulations must explicitly allow certain types of such businesses. The adoption process for such an ordinance may lead to questions from constituents like "Why are you allowing these businesses now when the old ordinance did not do so?" The candid answer is usually "The old ordinance was unconstitutional and will not stand up." On the advice of counsel, local officials may want to state the issue differently – but they need to be prepared for potential criticism for providing theoretical sites for businesses that some people would prefer not to see in the community.

Approach

A small town, a rural county or even a small city may lack first-hand experience with sex businesses and thus have no truly local evidence from which it can draw conclusions about secondary effects. The Supreme Court recognized that problem in *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41, 106 S. Ct. 925, 89 L. Ed. 2d 29 (1986). In that case, the Supreme Court reversed a decision of the Ninth Circuit Court of Appeals that had struck down the Renton ordinance regulating the location of adult movie theaters because of the lack of Renton-specific studies. The Supreme Court in its reversal of the Tenth Circuit ruled that Renton had relied extensively on studies from Seattle, a 15-minute drive north of Renton. The Court held:

> We hold that Renton was entitled to rely on the experiences of Seattle and other cities, and in particular on the "detailed findings" summarized in the Washington Supreme Court's *Northend Cinema* opinion, in enacting its adult theater zoning ordinance. The First Amendment does not require a city, before enacting such an ordinance, to conduct new studies or produce evidence independent of that already generated by other cities, so long as whatever evidence the city relies upon is reasonably believed to be relevant to the problem that the city addresses. That was the case here. Nor is our holding affected by the fact that Seattle ultimately chose a different method of adult theater zoning than that chosen by Renton, since Seattle's choice of a different remedy to combat the secondary effects of adult theaters does not call into question either Seattle's identification of those secondary effects or the relevance of Seattle's experience to Renton.
>
> 475 U.S. at 51-52, 106 S. Ct. at 931, 89 L. Ed. 2d at 40.

For a number of years after the decision in *Renton,* it became common practice for local governments to simply cite a set of "prepackaged" studies from other communities, without spending much time considering whether the evidence could be "reasonably believed to be relevant" to the potential problems faced by their respective jurisdiction. Today, many courts, including those in the Seventh Circuit (which includes Indiana), are asking tougher questions about the relevance of studies from distant and different communities.

In our work with cities like Detroit, Kansas City and Memphis that have a long local history with sexually oriented businesses, there is a rich set of anecdotal and other local data to demonstrate negative secondary effects in the community. For a jurisdiction like LaPorte County, with little experience with such businesses, our approach required us to go outside the County to examine sexually oriented businesses with the region to see what characterizes those businesses.

Sexually oriented businesses do vary by region, and the nature of activities at one establishment influences other establishments in the region – in part for competitive reasons. Dancers at the cabarets tend to move among establishments in a region, thus further extending the patterns and practices from one "club" to another. Thus, we have found that a very good way to show the relevance of studies from other jurisdictions to the local community is to use anecdotal evidence and available data to show how businesses in the region demonstrate the same sorts of activities found in the many studies from other communities. Showing such reasonably local evidence, even if largely anecdotal, places the community on a much stronger footing in court than New Albany, Indiana's situation in *New Albany DVD, LLC v. City of New Albany*, 581 F.3d 556 (7th Cir. 2009), cert. den. 130 S. Ct. 3410, 177 L. Ed. 2d 349 (U.S. 2010).

When we undertook this study, it was our understanding that there were no sexually oriented businesses anywhere in LaPorte County. As we began our work we quickly discovered that there is actually one sexually oriented business in Michigan City, but that one business would hardly provide data to serve as a basis for a study. We thus included sexually oriented businesses in nearby Lake and St. Joseph Counties, where we knew that there were several such businesses. Understanding how sexually oriented businesses operate in the region is useful to LaPorte County and the municipalities within it for many reasons:

1. Sex businesses within a region must compete with other, nearby businesses; the services offered both formally and informally in each business, as well as the prices charged, must be competitive with others in the region for the business to succeed;
2. In the cabarets and other live-entertainment businesses, performers tend to move from establishment to establishment, carrying with them some of the culture and practices of the other establishments;
3. The culture of the business varies by region, in part because business owners, suppliers, performers and other employees tend to know one another and to exchange ideas about management, performances, products, services and other offerings; and,
4. Within less urban areas and more rural areas, the negative secondary effects can have a more prominent impact on the rural landscape outside the boundaries of the more heavily urbanized areas.

Court Cases in Northern Indiana

Although it appears that there is only one sexually oriented business in LaPorte County (Déjà Vu Love Boutique in Michigan City), there have been a number of court disputes involving issues with sex businesses located in nearby counties in northern Indiana.

South Bend, IN – Barnes v. Glen Theatre, Inc.

One case has been nationally prominent. *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560, 111 S. Ct. 2456, 115 L. Ed. 2d 504 (1991), was one of the dozen or so cases in which the U.S. Supreme Court dealt with the regulation of sex businesses. This case involved two theaters in South Bend that challenged a state statute, not a city ordinance. The case tested Indiana's "public indecency" statute, which prevented the two theaters from providing nude entertainment. The "Glen Theatre"[1] was apparently not a theater in the classic sense but a bookstore with an arcade and an area in which dancers performed in small booths behind glass panels.[2] The Supreme Court provided this description:

> The live entertainment at the "bookstore" consists of nude and seminude performances and showings of the female body through glass panels. Customers sit in a booth and insert coins into a timing mechanism that permits them to observe the live nude and seminude dancers for a period of time.
>
> 501 U.S. at 568, 111 S. Ct. at 2459, 115 L. Ed. 2d at 509-10.[3]

Also involved in the case was the Kitty Kat Lounge, which had a liquor license and presented dancers wearing "pasties" and bikini bottoms, as required by the state law.[4]

The Court found that the public indecency statute was aimed at preserving public order, that it followed a long history of such laws in Indiana and elsewhere, and that it was not targeted at protected expression. The Court said in part:

> But we do not think that when Indiana applies its statute to the nude dancing in these nightclubs it is proscribing nudity because of the erotic message conveyed by the dancers. Presumably numerous other erotic performances are presented at these establishments and similar clubs without any interference from the State, so long as the performers wear a scant amount of clothing. Likewise, the requirement that the dancers don pasties and G-strings does not deprive the dance of whatever erotic message it conveys; it simply makes the message slightly less graphic. The perceived evil that Indiana seeks to address is not erotic dancing, but public nudity. The appearance of people of all shapes, sizes and ages in the nude at a beach, for example, would convey little if any erotic message, yet the State still seeks to prevent it. Public nudity is the evil the State seeks to prevent, whether or not it is combined with expressive activity.
>
> 501 U.S. at 570-71, 111 S. Ct. at 2463, 115 L. Ed. 2d at 514.

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[1] According to the court record, the theater was located at 500 West Chippewa Avenue in South Bend. That is now the site of Royal Rubber, a maker of molded and extruded rubber products. We have no other information on the ultimate fate of the bookstore/theater business.

[2] Note that the Déjà vu Love Boutique in Michigan City has similar booths, with a sign indicating that they are "permanently closed."

[3] Where we have seen similar booths elsewhere, there was a window with a slot under it (like those often seen at cinemas and once seen at banks), through which customers could tip the dancers, encouraging more explicit performances.

[4] The Kitty Kat Lounge was located in the 1300 block of South Michigan, some 5 blocks north of The Torch and Peaches Show Bar, profiled in this report; according to a news report, it was demolished in 2006 as part of a redevelopment project. James Loo, "Kitty Kate Lounge in South Bend set for demolition." South Bend Tribune, October 10, 2006, found at http://articles.southbendtribune.com/2006-10-10/news/26968885_1_demolition-kitty-kat-lounge-sites (accessed August 2012).

The Court's opinion was split, with two members of the Court joining the Chief Justice in the opinion of the Court, two others concurring with separate opinions, and three other members of the Court joining Justice White in his dissent. The essence of the dissent was two-fold. First, Justice White and his colleagues differentiated public nudity prohibitions applying in parks and on the streets, where young people or non-consenting adults might be exposed to such nudity, from the situation of adult entertainment establishments, where everyone who enters has presumably consented to see such entertainment. Second, they found that the law in fact targeted part of expression and they did not believe that it should be upheld without a demonstration of a "compelling state interest." Because at least at that time the Indiana legislature created no record of legislative history, it was impossible to know its intent and thus to find such a compelling interest.

Mishawaka, IN – Pleasureland Museum v. Beutter

In 2002, just across the river from South Bend, , *Pleasureland Museum, Inc. v. Beutter*, 288 F.3d 988 (7th Cir. Ind. 2002) involved Mishawaka's efforts to address secondary effects of a retail store that handled sexually oriented devices and that had video viewing booths.[5] The city won some and lost some in this case. The court found that the ordinance was not overbroad because its definitions sufficiently defined the types of media that were affected. As to sexual novelties and devices, the court remanded the case to the district court for further findings in light of the appellate court's own analysis showing the therapeutic uses of such devices.

Importantly, the court upheld "open booth" requirements applied to the video viewing booths:

> We are satisfied that Mishawaka's goals of preventing the spread of disease and maintaining sanitary and safe conditions at sexually-oriented businesses "would be achieved less effectively absent the [open booth] regulation."
>
> 288 F.3d at 1004, citing and quoting *Matney v. County of Kenosha,* 86 F.3d 692, 700 (7th Cir. 1996), a case arising in Wisconsin.

Typically, viewing booths are located along long halls. Removing the doors is simply not enough; making every part of the booths visible from a central location would typically require significant if not major construction work. We have often recommended the use of video monitoring of hallways as an alternative for similar existing establishments. With new establishments or where booths are being added to an existing establishment, there is no similar difficulty in applying a requirement that the interior of all booths be visible from the manager's station. In *Pleasureland Museum, Inc. v. Beutter*, the establishment apparently did not raise and the court did not address the potential vested rights or nonconforming use issue in requiring full visibility of every part of the premises from a manager's station.

The court upheld limitations on color schemes and signage but struck down a provision limiting the business to displaying only its name on its sign:

[5] Pleasureland Museum was formerly located at 114 West Mishawaka Avenue in Mishawaka. We visited the location, which is now a vacant lot in a redevelopment area.

> However, we invalidate the Signage Restriction in Section 125.16(D)(1), which limits signage to "only the legal name of the enterprise," because it is substantially broader than necessary to achieve Mishawaka's goals. Mishawaka fails to articulate a single reason why it is necessary to limit a sexually-oriented business' signage solely to displaying its name. Under Section 125.16(D)(1), a sexually-oriented business will not be allowed to notify the public about what type of store it operates or what its hours of operation are. Such a drastic restriction on signage cannot be sustained without some sort of evidentiary support. In *Cumberland,* 228 F.3d at 853, we struck several provisions of a licensing scheme because the city "neither conducted nor cited any study establishing its basic premise" that those provisions were necessary to achieve the desired goal. Such provisions were substantially more broad than necessary to combat secondary effects. *See id.* As in *Cumberland,* Mishawaka cites no study nor provides any argument showing the Signage Restriction in Section 125.16(D)(1) to be narrowly tailored. We invalidate Section 125.16(D)(1) because we conclude that restricting a business to displaying only its name "burdens substantially more speech than is necessary to further" Mishawaka's goal of combating deleterious secondary effects such as urban blight and [*1003] a decline in property values. *Ward,* 491 U.S. at 799.
>
> 288 F.3d at 1002.

Note that the only serious discussion of "secondary effects" in *Pleasureland Museum, Inc. v. Beutter*, dealt with the transmission of disease and unsanitary conditions that could result from activities in the closed booths. Beyond that, the court here and in other early cases accepted as somewhat common sense the notion that the adopted ordinances would help to address such effects.

Hammond, IN – Abraham, Inc. v City of Hammond

Subsequent cases before the Supreme Court and the circuit courts of appeals have asked tougher questions about the 'fit" between an ordinance and the secondary effects that it is intended to mitigate, and thus decisions have included considerably more discussion of the issue. See, for example, *Abraham, Inc. v. City of Hammond*, 2003 U.S. Dist. LEXIS 25554 (N.D. Ind. Feb. 14, 2003), where the court determined that a number of disclosure requirements for employees at sexually oriented business was unconstitutional although the Seventh Circuit and other courts have upheld at least limited disclosure requirements. The court said in part:

> Personal information that does not further a substantial governmental interest or that has no reasonable relationship to the stated governmental interest may not be required or compelled. In addition, regulations compelling such disclosures in order to be able to engage in constitutionally protected activities violate the First and Fourteenth Amendments.
>
> 2003 U.S. Dist. LEXIS 25554 at 52.

The "negative secondary effects," of course, typically provide the basis for a finding of a "substantial governmental interest." As the court indicated in *Abraham, Inc. v. City of Hammond*, it is essential that there be a "fit" between the secondary effects that the community wants to mitigate and the substance of its regulations. In this case, the court could not see a relationship between the requirement that

employees' home addresses and photographs be maintained in publicly available files and the effects that the city sought to limit.

Also in *Abraham, Inc. v. City of Hammond*, the court provided this summary of the Seventh Circuit's standards for meeting the adequate "alternative avenues" test for the availability of sites:

> The Seventh Circuit has concluded that the quantity of land available will differ depending on the jurisdiction: "the Constitution does not mandate that any minimum percentage of land be made available for certain types of speech. What it does require is that zoning schemes that regulate the location of speech provide a 'reasonable opportunity' to disseminate the speech at issue." *North Avenue Novelties*, 88 F.3d at 445. In addition, the requirement that sites be potentially available connotes that there is a "genuine possibility" of those sites being used by commercial enterprises. See *Topanga Press*, 989 F.2d at 1531. Factors to consider include whether the potential sites are "reasonably accessible to the general public"; whether they have proper infrastructure such as sidewalks, roads and lighting; and whether the site suits some generic commercial enterprise. The burden of establishing that there are potential sites available rests, in the first instance, with the government. See *North Ave. Novelties*, 88 F.3d at 444; *Lim v. City of Long Beach*, 217 F.3d 1050, 1054 (9th Cir. 2000).
>
> *Abraham, Inc. v. City of Hammond*, 2003 U.S. Dist. LEXIS 25560 (N.D. Ind. Feb. 24, 2003), at 16-17.

Gary, IN – Andy's Restaurant & Lounge v City of Gary

In *Andy's Rest. & Lounge, Inc. v. City of Gary*, 466 F.3d 550 (7th Cir. Ind. 2006), seven businesses[6] challenged the evidentiary basis on which the city had relied to demonstrate the negative secondary effects of sexually oriented businesses. Citing prior case law and other findings by the city council incorporated into the preamble of the adopting ordinance, the court held in part:

> The evidence relied upon by the City is more than adequate to establish the secondary effects regulated by the Ordinance. The record contains numerous studies evidencing the secondary effects of sexually oriented businesses.
>
> 466 F.3d at 555.

In granting the City of Gary's motion to dismiss this industry challenge to its 2000 ordinance regulating sexually oriented businesses, a federal magistrate judge held in part:

> In addition to these cases and the numerous secondary effects reports from other cities cited in the Ordinance itself, the City of Gary supported its motion for summary judgment with crime maps, police reports regarding prostitution and drug dealing, reports of criminal activity in and around adult businesses, including book and video stores, and affidavits of private investigators attesting to unsanitary conditions in video observation booths.... The court finds that this evidence fairly

[6] The only named plaintiff that we recognized was Pandora's Show Club, profiled in this report. The lead plaintiff, Andy's, was apparently located at 9300 Melton Road, along a section of U.S. 20 that still has a number of sexually oriented businesses; it apparently became Honey's, which has now consolidated with another business and moved to another location along U.S. 20; the property at 9300 Melton Road was apparently vacant and had a "for sale" sign in the spring of 2012.

> supports the City's proffered rationale that an Ordinance is necessary to reduce crime, transmission of sexual diseases, and urban blight.

Andy's Rest. & Lounge, Inc., v. City of Gary, No. 2:01 cv 327 (N.D. Ind. 2005), at 25.[7]

In rejecting a challenge to the "open booth" portion of the Gary ordinance (see discussion of *Pleasureland Museum*, above), the magistrate relied on this record:

> In this case, the City of Gary has made findings, with reliance on its own investigative reports and case law specific to other municipalities' experiences with closed booths, that "[s]exual acts, including masturbation, and oral and anal sex, occur at unregulated sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows." (Ordinance 2000-83(B)(3)) In addition, the City has made numerous findings regarding the sanitary conditions and presence of bodily fluids in viewing areas, the prevalence of AIDS, HIV infection, and other sexually transmitted diseases, and the likelihood that removal of doors and sufficient lighting will reduce the spread of these diseases by reducing illegal sexual activity in areas where films are viewed.
>
> *Andy's Rest. & Lounge, Inc., v. City of Gary*, No. 2:01 cv 327 (N.D. Ind. 2005), at 22.

[7] The full citation to this unreported magistrate's decision is Andy's Rest. & Lounge, Inc., v. City of Gary, Case No. 2:01 cv 327 (N.D. Ind. 2005), at 25, aff'd 466 F.3d 550 (7th Cir. Ind. 2006).
We have tried without success so far to obtain copies of the evidence on which the court relied. The court records have been archived but we have a pending inquiry with the Gary City Attorney's office to see if they may have copies.

Site Visits

As consultants specializing in secondary impacts of sexually oriented businesses, we have visited over 200 sex businesses in dozens of cities and counties. These communities range from Memphis, where we found the business to be almost unregulated, to Biloxi, Mississippi, where activities were fairly tame. Under a contract with the City of Detroit, we visited almost every open sex business within the City.

There are two types of sexually oriented businesses that we believe might operate in LaPorte County – cabarets or gentlemen's clubs and adult retail stores with (or without) video viewing booths. Our site visit study identifies 10 cabarets and four retail stores with video viewing booths within the region. Six of the 10 cabarets are in close proximity to where Interstates 65, 90 and 94 come together at Gary and Lake Station, three are in the heart of South Bend, and one is in Hobart adjacent to US 30 or Lincoln Highway. Of the four retail stores with video viewing booths, two are in South Bend, one is in Gary on US 20 (Melton Road) just north of Interstate 90, and one is in Michigan City on US 20 a mile north of US 421 and Interstate 94.

To supplement our site visits, we subscribe to online services such as The Ultimate Strip Club List (www.tuscl.com). We find websites like this one to be extremely helpful in providing information on the activities of the dancers and club management, operating hours and club locations. The Ultimate Strip Club List was used to initially identify cabarets and clubs to visit in northwest Indiana. Although this is a secondary data source, but we rely on them more than other types of data sources for many reasons:

1. The general tenor of the comments about clubs in other communities has been consistent with our experience during our site visits at these same clubs;
2. Since the comments are anonymous (signed with screen names), there is little motivation for people to lie in their reviews, and the reviewer is protected against backlash for a negative comments while eliminating any real motive to brag, since an anonymous brag amounts to nothing;
3. It is very common for people to provide reviews on all sorts of things, ranging from restaurants to eBay sellers; providing reviews related of sex businesses is type of Internet activity to which people are increasingly accustomed; and
4. We use only reviews where there are at least three review comments on an establishment; and avoid using the most negative and most positive comments on an establishment or descriptions of activities that we find unlikely to have occurred, based on our own experience in these or similar businesses.

As mentioned above, there are 14 sexually oriented businesses included in the area that we studied; we omitted some in western Lake County because they appeared to relate more to the Chicago metro area than to Indiana's "Region." We conducted interior visits of nine of the 14 businesses. We visited all locations to observe surrounding land uses as well as exterior conditions of the premises. Of the nine businesses, we visited all during weekend evenings, when sex businesses in general are most likely to be the busiest.

We did not go into five clubs in the two areas: clubs, one club was closed for the season, (Peaches); one was a posted as private club (Honey's); three others fell in our "do not visit" category, based on a combination of neighborhood, condition and, for some, on-line reviews (Pandora's, Temptations, and

Centerfolds). When we decide not to visit a club or other type of sex business, we do not make that decision casually – we make it based on past experience of what is a safe business to enter or to avoid. The following summarizes the list of sexually oriented businesses included within this study:

Cabarets or Gentlemen's Clubs	
Déjà Vu Showgirls	Lake Station, Lake County
DreamGirls	Lake Station, Lake County
Honey's	Gary, Lake County
Pandora's Show Club	Gary, Lake County
Polekatz Gentleman's Club	Gary, Lake County
Temptations Gentleman's Club	Gary, Lake County
Beer Barrel Tavern	Hobart, Lake County
Centerfolds	South Bend, St. Joseph County
Peaches Show Bar	South Bend, St. Joseph County
The Torch	South Bend, St. Joseph County
Retail Stories with On-premise Video Entertainment	
Déjà Vu Love Boutique	Michigan City, LaPorte County
Little Denmark	South Bend, St. Joseph County
Romantix Adult Superstore	South Bend, St. Joseph County
Romantix Adult Superstore	Gary, Lake County

Cabarets / Gentlemen's Clubs

Déjà Vu Showgirls – Lake Station

2491 Ripley Street
Lake Station, Indiana

Surrounding Area	The club is located approximately ½ mile south of Interstate 94 abutting the east side of Ripley Street. It is within an isolated industrial and wooded area immediately south of Deep River and approximately 1000 feet north of Riverview Park. The sign on entrance road next to club advertises lots within an industrial park.
Exterior Conditions	The exterior is plain but in good condition and generally well-maintained. Its metal sheathed façade facing the road improves the appearance of what is otherwise an industrial-style block building. It is unclear why there are two front doors, perhaps serving as a fire exit. There is one security camera monitoring the 35 parking spaces.
Operating Hours	M – F 2 pm to 3 am; Sat. 4 pm to 3 am; Sun 7 pm to 1 am;
Cover Charge	$10, includes admission to Dream Girls, downstairs
Liquor License	Yes
Interior Conditions and Description	Enter at one end of the building with the bar to the right and the elevated dance stage to the left in the middle of the room. It's not as upscale as some other Déjà Vu clubs we have visited, but generally well-maintained. Private lap dance areas are located three sides of the room, with sight lines obscured by a half wall.
Commentary	Dancers are required to wear bottoms (usually thongs) and pasties or latex disguised with makeup. Dancers sit and chat with customers often sitting on their laps, some without cover ups (somewhat unusual in our experience). On the stage and during private lap dances ($15), dancers have full contact with customers, rubbing customer's face between their breasts and/or putting dancer's head on the customer's crotch area.

DreamGirls – Lake Station

2491 Ripley Street
Lake Station, Indiana

Surrounding Area	Like Déjà Vu, the club is located approximately ½ mile south of Interstate 94 on the east side of Ripley Street on the lower level of Déjà Vu. It is within an isolated industrial and wooded area immediately south of Deep River and approximately 1000 feet north of Riverview Park. The sign on entrance road next to club advertises lots within an industrial park.
Exterior Conditions	The exterior is plain but in good condition and generally well-maintained. In contrast to Déjà Vu, it is sheathed with a wooden façade and is located below and to the rear of Déjà Vu. One security camera appears to monitor the 30 unpaved parking spaces.
Operating Hours	7 p.m. to 3 a.m. Tuesday through Saturday
Cover Charge	$10 but that includes admission to Déjà vu upstairs
Liquor License	No – Permits persons 18 and above since no alcohol is served
Interior Conditions and Description	Enter at one end of the building with the "service bar" to the left. The recessed "stage" is on the far side of the room (it's at floor height with a short wall on both sides). It is generally well-maintained but plain. The private lap dances are performed in approximately six curtained private booths located at one end of the room.
Commentary	This is what is called a "juice bar" – nudity without alcohol. Non-alcoholic drinks are free. Because there is no liquor license, dancers can go bottomless while dancing (we did not see any do that). Lap dances are $20 per song and take place in the booths with a closed curtain during the song (the dancer pays the club a portion of a every lap dance and leaving the curtain closed after the song triggers an additional charge to the dancer). Several on-line reviewers indicated that lap dances are bottomless for an extra $5 ($20 instead of $15). We were quoted $20, so the presumption is bottomless is the norm. Many reviewers said a limited amount of touching by the customer is allowed. A dancer confirmed this and also said "we can grind as much as we want to."

Honey's – Gary

8120 Melton Road (US 20)
Gary, Indiana

NOTE: Picture is shopping center behind Honey's; if picture had wider angle, Honey's would be to the right of this picture and next to the road

Surrounding Area	The club is located on the north side of Melton Road (US 20) approximately ¾ of a mile north of Interstate 94 near the intersection of Ripley Street and Melton Road. It is an outparcel within an aged commercial strip center. There is a partially collapsed building immediately behind the club, a vacant lot to the east and a closed restaurant across Melton to the south.
Exterior Conditions	This is an old branch bank with the drive-through canopy (partially collapsing) to the rear of the building. Overall the building is in poor condition, although somewhat better in front than in rear.
Operating Hours	7 p.m. to 3 a.m.
Cover Charge	$10 (according to online source)
Liquor License	No – Permits persons 18 and above since no alcohol is sold (may permit BYOB)
Interior Conditions and Description	The signs on the exterior of the building indicated it was a "private club" so we did not enter the club.
Commentary	Based on online information, this is the result of a merger between a club called Shangri La (formerly at 6225 Melton) and Honey's, which also apparently moved. The club was posted as a "private club – members only" and the generally inhospitable appearance of the building (very dark exterior) discouraged us from attempting to enter the club. Online reviews indicate that private lap dances are performed in the VIP rooms with full nudity. Price for lap dances are 4 for $60, etc.

Pandora's Show Club – Gary

3201 Melton Road
(E. Dunes Hwy)
Gary, Indiana

Surrounding Area	The club is located on the north side of Melton Road (East Dunes Highway) approximately 1000 feet east of Interstates 90 and 65 within a sparsely developed industrial area with railroad tracks behind (separated only by a service road). There are vast amounts of vacant land and an abandoned electrical sub-station across the street.
Exterior Conditions	This is a small brick and wood structure in very poor condition sitting within a large crumbling parking lot. There were three security cameras aimed at parking lot and good lighting outside.
Operating Hours	8 p.m. to 3 a.m. based on signage
Cover Charge	$5 (according to online source)
Liquor License	Yes
Interior Conditions and Description	We did not enter the club given the exterior condition of the club (see "Commentary").
Commentary	The exterior condition of this club was one of the worst that we have seen in any city; the condition was so bad that we concluded that we would not go in, something that we rarely do. A later check of reviews on –line confirmed our decision.

Polekatz Gentleman's Club – Gary

9148 Melton Road
Gary, Indiana

Surrounding Area	The club is located on the north side of Melton Road (US 20) approximately ¾'s of a mile east of Ripley Street's intersection with Melton and 1.5 miles north of Interstate 94. It is 3000 feet east of Honey's (another club) and diagonally across Melton from Romantix Adult Superstore. The club is within a somewhat remote sparsely developed industrial area and vacant property; inoperable vehicles are on adjoining property to the east.
Exterior Conditions	The building is an industrial block building in good condition – in better condition than most clubs we visited
Operating Hours	M – F, 11 am to 3 am; Sat. and Sun., 5 pm to 3 am
Cover Charge	$10
Liquor License	Yes
Interior Conditions and Description	Enter at one end of the club with an elevated stage to the right and a bar against one wall. Seating areas surround the stage on three sides and private lap dances are performed in a remote elevated area along one side of the club. The club was very smoky.
Commentary	Dancers sit and chat with customers sometimes sitting on their laps, some without cover ups. On the stage dancers have full contact with customers, rubbing customer's face between their breasts and/or putting dancer's head on the customer's crotch area. Lap dances were advertised $10 but are probably higher. This was the only club where we were asked to show our driver's license before gaining entrance.

Temptations Gentleman's Club – Gary

6900 Melton Road
Gary, Indiana

Note: Club listed at both 6400 and 6900 Melton Road; on Google maps, address goes to same place.

Surrounding Area	The club is located on the north side of Melton Road (US 20) approximately one mile west of Ripley Street's intersection with Melton and 2 miles north of Interstate 94. This is an older light industrial area with old trailers and shipping containers stored around it. There is a small, older mobile home park a ¼ mile west and a light industrial building across Melton to the south.
Exterior Conditions	Fair to poor, painted concrete block; somewhat rundown but better than some others; very limited lighting for parking lot, no apparent security cameras on lot; as photo indicates, routine maintenance is poor even though building is in somewhat better condition.
Operating Hours	10 p.m. to 4 a.m. (based on online information)
Cover Charge	$10 (according to online source)
Liquor License	No; online reviewers report BYOB but that was not verified
Interior Conditions and Description	We did not enter the club given the exterior condition of the club (see "Commentary"). One on-line reviewer indicated that it was "nicer than I expected" but went on to say that his expectations were not very high.
Commentary	Many on-line reviewers liked the club. They reported $10 lap dances in the open, on a chair and $20 lap dances in a back room. Several also reported that the price for "extras" ranges from $80 to $150 with some variation at $35. Several reported complete satisfaction. Lots of physical contact with dancers even during conversations. The on-line reviews were not as discouraging as the condition of the building, but we still elected not to enter.

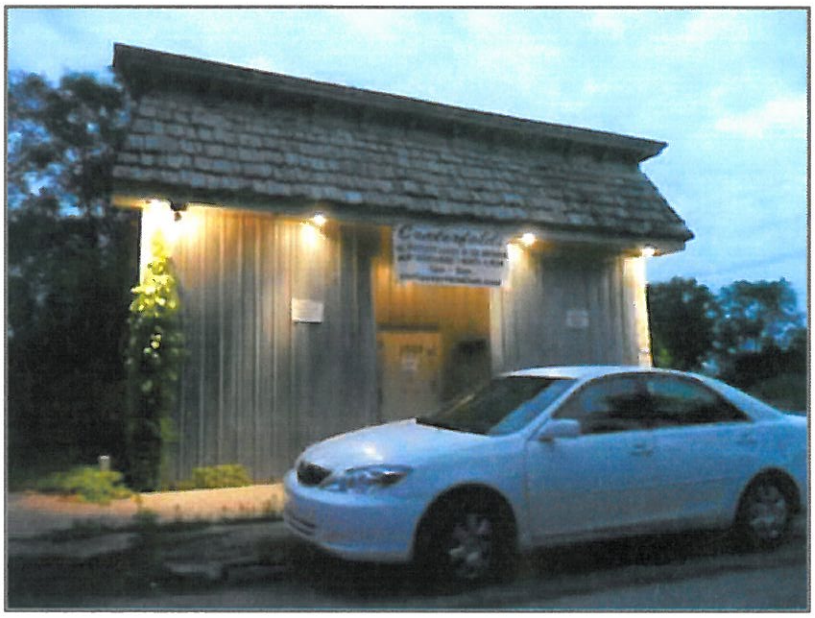
Beer Barrel Tavern & Restaurant – Hobart

4717 East Lincoln Highway
Hobart, Indiana

Surrounding Area	The club/tavern is located on the south side of Lincoln Highway (US 30) approximately 1.5 miles east of Interstate 65 at the intersection of Clay Street and Lincoln Highway. This is a typical commercial strip area along the Lincoln Highway.
Exterior Conditions	This somewhat elongated wooden building was in generally good condition with a well-lighted, paved parking area but no obvious security cameras outside.
Operating Hours	Lingerie modeling from 8 p.m. until, Tuesday, Wednesday, Thursday; apparently operates as just a restaurant and bar other nights.
Cover Charge	No
Liquor License	Yes
Interior Conditions and Description	The building has two parts; one is apparently a traditional restaurant and the other, which we visited, is a bar offering drinks and private lap dances/lingerie modeling. As we entered this area, there was a large double-sided bar occupying two-thirds of the room with bar stools and booths to the side and behind. The other third was an area with a pool table. Immediately to the right of the entrance were two alcoves with swinging half doors that are used for private lap dances – or perhaps private lingerie modeling. There were 3 or 4 girls in lingerie when we visited. The inside of the bar was typical of a casual, not-upscale smoky neighborhood bar in generally good condition.
Commentary	There is no indication from the outside that this is a sexually oriented business. We found it on-line, so we decided to drop by. Inside the vestibule there was a small paper sign tacked up next to the door indicating that the "lingerie" shows starting at 8 p.m. on Tues-Weds-Thurs. Other than that this it appeared to be a typical restaurant (on the east end of the building) and bar (on the west end). If there is a place for a stage-type show, it was not obvious. Two of the girls were sitting and chatting with guys around the bar, one was just coming out of the back and the other was by herself.

Centerfolds – South Bend

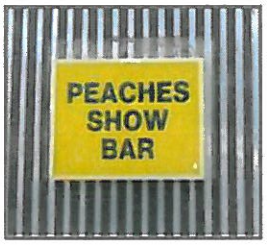
1505 Kendall Road
South Bend, Indiana



Surrounding Area	The club is located in the southern part of South Bend, about 500 feet east of Prairie Avenue and a block north of Indiana Avenue. It is about 1.5 miles from the downtown just across the railroad tracks from a developing industrial park. The club sits within a former residential area which is now mostly empty lots and old abandoned residential houses.
Exterior Conditions	The weathered wood siding of the building with its small doorway and the abandoned buildings nearby makes the building very ominous looking (the photo depicts it much too kindly).
Operating Hours	Mon. – Wed., 7 pm to 3 am; Thur. – Sat., 9 pm to 3 am (based on online information)
Cover Charge	Unknown
Liquor License	None found, may be a BYOB establishment
Interior Conditions and Description	Given the exterior appearance and somewhat rough neighborhood, we did not go in but doors were open and we could see inside. It looked like a local "dive" bar.
Commentary	This club is listed on a major strip club website, but it is the ONLY club that did not have any online reviews. Both its location (somewhat hard to find) and the marginal exterior appearance suggest that this is a local place. When we drove by slowly before opening time, a male came out of the business and watched us drive away and continued to watch us while we stopped in a parking lot a little more than a block away to take notes for this report.

Peaches Show Bar – South Bend

1811 South Michigan Street
South Bend, Indiana



Surrounding Area	This club is south of downtown South Bend. It is on the west side of Michigan Street, a major one-way arterial running north toward downtown. Land uses surrounding Peaches are older commercial businesses along Michigan Street and industrial uses to the rear of the building. Another adult club, The Torch, is just a few doors down from Peaches.
Exterior Conditions	The exterior is a combination of metal and old wood -- very foreboding in appearance. There is one security camera aimed toward the entry.
Operating Hours	Thurs. – Fri., 7 pm. to 3 am (based on online review - see "Commentary")
Cover Charge	$5 (according to online source)
Liquor License	Yes (beer and wine based on online review)
Interior Conditions and Description	Online reviews did not describe the interior but given the condition of the exterior, the interior is most likely marginal.
Commentary	Although we were there on a Saturday evening, the club looked closed; several on-line sources indicate that it is co-owned with The Torch (see separate review); one of the girls at The Torch told us that Peaches is only open from "football season to February."

The Torch – South Bend

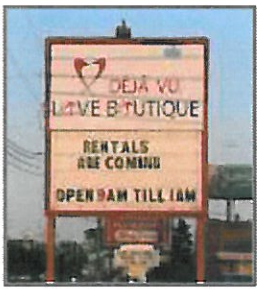
1813 South Michigan Street
South Bend, Indiana

Surrounding Area	This club is in also south of downtown South Bend. It is on the west side of Michigan Street, a major one-way arterial running north toward downtown. Land uses surrounding The Torch are older commercial businesses along Michigan Street, including a liquor store around the corner and industrial uses to the rear. Another adult club, Peaches, is just a few doors up Michigan Street.
Exterior Conditions	The exterior of The Torch is in very good condition, albeit not the newest of buildings. It is much better maintained than most other buildings in the area. Exterior security cameras are monitored from behind desk and visible to customers and employees. Parking is provided on the side and to the rear of the building.
Operating Hours	Mon. – Sat., 7 pm to 3 am
Cover Charge	$5
Liquor License	Yes
Interior Conditions and Description	The entry is at one end of the building with the dancers on an elevated stage at the other end almost behind the bar. On occasion the dancers walk around the top of the bar soliciting tips from patrons. There are other elevated "dance pods" around the room but not used during our visit. The VIP "champagne spaces are to the right of the club entrance near to the club's bouncer. Most of the seating is between the entrance and the bar quite a distance from the main stage.
Commentary	Upon entry, male customers were wanded for guns and knives by the two bouncers (security) at the door. Dancers did say that the security guards walked them to their cars at night. The stage's odd arrangement behind bar limits contact with dancers while performing, but dancers work the room when not dancing. Lap dances are $20. On-line reviews make it sound fairly tame, with lots of restrictions on touching even during lap dances.

Retail Stores with On-premise Video Entertainment

Déjà Vu Love Boutique – Michigan City

412 West U.S. Highway 20
Michigan City, Indiana



Surrounding Area	This business is the only adult use that we found in LaPorte County. It is located within the city limits of Michigan City on the south side of US 20 about ½ mile west of US 421. Marquette Mall is just across US 20 to the northeast along with a variety of sparsely developed older retail, light industrial and vacant parcels along the highway.
Exterior Conditions	Good; older building (possibly a former residential building) but reasonably well maintained.
Operating Hours	Mon. – Sun., 9 am to 1 am
Cover Charge	There is no "cover charge" but for those visiting the video viewing rooms and theater, there is a fee of $8 "all day" for the theater and a $5 minimum for the video arcade.
Liquor License	No
Interior Conditions and Description	It has a well-lighted, well-merchandised, well-maintained retail area in the two front rooms. There is a separate arcade area at the rear entered by walking down a few steps. It has 20 standard viewing booths of about 10 sf each with no glory holes. The "theater" is a small room with a large television and 8 plastic chairs. There were 3 glass-faced booths for individualized dancing with signs indicating they were "permanently closed."
Commentary	The business appears to be clean and well-managed. Female on duty was particularly attentive to customers and spent time telling us about the merits of Lelo vibrators – not typically found at sex shops. There may have been one or two people in the booths during our late afternoon visit but no one in the theater. Expecting to see more activity later in the evening, we drove by around 10 pm but saw only one car.

Little Denmark – South Bend

3002 West Western Ave.
South Bend, Indiana

Surrounding Area	This business is located on Western Avenue, a major arterial leading into South Bend from the west. It is located among a mixture of very tired older commercial development backed by residential neighborhoods built in the 1940s and 1950s. The property abuts a residential neighborhood adjacent to the parking lot.
Exterior Conditions	This one story, siding covered building sits on a corner with blocked up windows and closed up doorway (with entry at the rear of the building). Only a small sign indicates the name of the business. No security cameras were evident. Parking was limited to four off-street spaces and on-street parking.
Operating Hours	Mon. – Thu., 10 am to 10 pm; Fri. – Sat., 10 am to 12 am; Sun., 12 pm to 8 pm
Cover Charge	$8 to enter video "lounge" area
Liquor License	No
Interior Conditions and Description	There are two rooms; near the entrance is a small retail area with limited selection of videos and sex toys. To the rear of the store is a video "lounge" with an $8 entrance fee. It has two large-screen televisions and tables with chairs around them.
Commentary	This shows up on some sites as a gay club; on-line comments suggest that there may be sexual activity in the lounge area. The place was almost deserted at 10 p.m. on a Saturday, so we did not stay; we drove by it later and saw more cars there.

Romantix – South Bend

2715 South Main Street
South Bend, Indiana

Surrounding Area	This business is in the southern end of South Bend. It is on the southwest corner of Eckman Street and South Main, a major one-way arterial running south away from downtown. The surrounding development is a mix of residential (south), an appliance store parking lot (east), industrial (west across existing railroad tracks) and a auto detailing shop (north).
Exterior Conditions	The building exterior and parking lot area in excellent condition buffered from the street by a tall wooden fence
Operating Hours	24 hours
Cover Charge	$6 to enter arcade area; retail area is free
Liquor License	No
Interior Conditions and Description	Well-lighted and well-maintained retail area with large variety of sex toys, sexy clothing, novelties and media. It was odd that it had two separate entrances to the store from the same parking lot (the other one is on the end of the building, not quite visible to right of photograph). There is a separate video arcade area. The hall is relatively dark and the lay-out is odd making it difficult to get a good booth count, but there were at least 12.
Commentary	Lots of activity here. Some males were waiting in cars and watching people go in or possibly hook up with them as they leave. Several people in retail area of store. Arcade booths were unusually large – probably 80 square feet. Despite the fact that each had a sign saying "1 person per booth," each booth had a bench-couch designed to seat two people. There were no glory holes, but the double-seating in the booths may have made them irrelevant. Lights indicate when a booth is occupied. During the site visit we saw a male sit in a couple of different booths for a total of 15 or 20 minutes. Two males entered the booth I visited to see if I was interested. I walked briefly into another occupied booth just to see what would happen; the occupant was exposed and clearly not surprised that I came in --- I apologized and left quickly.

Romantix – Gary

8801 West Melton Road
Gary, Indiana

Surrounding Area	The business is located on the south side of Melton Road (US 20) approximately ¾'s of a mile east of Ripley Street's intersection with Melton and backs up to Interstate 90. It is about 3000 feet east of Honey's (another club) and diagonally across Melton from Polekatz (adult club). The business is within a somewhat remote sparsely developed industrial area, vacant property and a temporary fireworks stand to the east.
Exterior Conditions	The exterior of this small building is generally go with two security cameras and an extremely large paved, well-lighted parking lot.
Operating Hours	24 hours
Cover Charge	$6 card to go into the arcade area; there was not charge to enter the retail area.
Liquor License	No
Interior Conditions and Description	Well-lighted but very small retail area with a variety of sex toys, novelties and media. There was a separate "theater" which was locked and we did not ask to go in. Down three or four stairs (no apparent handicapped access) is the arcade, where I counted about a dozen booths. The hallway was dark. The booths were typical arcade booths of about 20 square feet with a hard chair in each and door locks. Many but not all booths had glory holes, providing visual and potential physical connection to person in the adjoin booth.
Commentary	Some customers were shopping in retail area, but most activity was in arcade area. Four males were loitering in the booth hallway area, apparently looking for pick-ups. I spent 15 minutes or so in three or four separate booths, with the door unlocked; one guy entered the booth and another signaled to me through a glory hole.

Studies of Secondary Effects

Overview

Non-obscene books, videos, DVDs and other media, as well as erotic dance, are protected by the First Amendment. Obscene media and performances are prohibited by criminal laws in every state, but the definition of "obscene" is very specific and does not apply to all of the kinds of media and performances that people in a community might consider "pornographic" or otherwise objectionable. It is non-obscene but arguably pornographic media and performances that the First Amendment protects – but this does not mean local communities cannot regulate the venues and/or manner in which non-obscene media or performances are presented (see below).

Although a number of important decisions of the Supreme Court in the last few years have been decided by votes of 5 to 4, recent decisions dealing with First Amendment issues have generally been decided against government regulations and in favor of freedom of expression – by votes of 8-0 and 7-2. When a local or state government loses litigation over Constitutional rights, it is exposed not only to the potential of having its ordinance or law struck down but also to the potential of paying out damages under Section 1983 of the Civil Rights Act and attorneys' fees under Section 1988.[8]

Generally when a local government goes into court to defend an ordinance, it has an advantage – that advantage is called the "presumption of validity." Under the "presumption of validity, if two sides put on equal cases, the local government essentially wins. When, however, a local government adopts regulations that implicate the First Amendment by regulating some type of speech based on the content of the message, or the identity of the speaker, it loses that presumption of validity; in such cases, the courts typically apply "strict scrutiny," which is a short-hand way of saying essentially that the local government goes into court with a presumption that its ordinance is NOT valid. The courts have further developed that doctrine to say that, to overcome that negative presumption, a local government in such a case must demonstrate a "compelling governmental interest" to win the case.[9] That is in contrast to a normal challenge to a local ordinance in which the government must show only a "rational basis" for the ordinance. It is very difficult to meet the "compelling governmental interest" test.

How can a local government regulate sex businesses without referring to the content of the message? It really cannot do so – sex businesses are distinguished from non-sex businesses primarily by their sexually explicit, dominant messages. Fortunately the Supreme Court recognized this sort of Catch-22 and helped out. In 1986, it held in *City of Renton v. Playtime Theatres, Inc.*[10] that regulations crafted to mitigate "negative secondary effects" of sexually oriented businesses on a community, rather than the content of the materials, should be considered "content neutral." As such, it is subject only to "intermediate scrutiny"

[8] It is not unusual to see attorneys' fees in such cases in the range of $200,000 or $300,000 or more – and that is just the amount that the local government might own to a prevailing party; it also has to pay its own lawyers, who are often expensive, outside specialists in First Amendment cases.

[9] United States v. O'Brien, 391 U.S. 367, 383-84, 88 S. Ct. 1673, 20 L. Ed. 2d 672 (1968).

[10] See City of Renton v. Playtime Theatres, Inc., 475 U.S. 41, 106 S. Ct. 925, 89 L. Ed 2d 29 (1986).

of furthering an important governmental interest by regulating the "time, place and manner" of an activity. That is a much easier test to satisfy than the "compelling governmental interest" test.

Thus, it is important that any ordinance LaPorte County enacts to regulate sexually oriented businesses focuses on the negative "secondary effects" of these sexually oriented businesses on surrounding neighborhoods and the community at large, not the desire to ban or regulate these businesses simply because of the merchandise they carry or the activities that are conducted on the premises. "Secondary effects" are such things as the increase in crime rates and/or the diminution of property values due to the proximity of sexually oriented businesses.

It is also important to remember that the basic purpose of the studies of secondary effects is to demonstrate a legislative purpose unrelated to censorship of the material. As the Fifth Circuit has held:

> We do not ask whether the regulator subjectively believed or was motivated by other concerns, but rather whether an objective lawmaker could have so concluded, supported by an actual basis for the conclusion. Legitimate purpose may be shown by reasonable inferences from specific testimony of individuals, local studies, or the experiences of other cities. This level of scrutiny best accommodates the need to ensure proper purposes with the limited competence of courts to discern ephemeral legislative motivations.[11]

The federal courts have also held that local governments can rely on studies from other communities; although recent decisions in the Seventh Circuit (which includes Indiana) have asked tough questions about the relevance of the studies on which a community relies.[12]

Establishing an "important governmental interest – unrelated to the suppression of speech" is essential to the adoption, implementation or defense of regulations of sexually oriented businesses. Documenting measurable, negative secondary effects is the most practical and most widely accepted method of establishing such a purpose. Courts once appeared to accept a mere recitation of negative secondary effects; today, in the context of often-effective legal challenges by the sex industry, courts have raised their expectations. Today they expect more. Documenting the negative secondary effects on property values through surveys of appraisers, impacts on crime through analysis of crime statistics, and potential impacts on public health are all measures required to demonstrate the negative secondary effects of sexually oriented businesses and thus support regulation of these businesses to further the governmental purpose.

Because LaPorte County and the municipalities within it have extremely limited experience with sexually oriented businesses (there is only one such business in the County and it does not offer any form of live entertainment), we have looked beyond the borders of the County to nearby Lake County (Gary and Lake Station) and St. Joseph County (South Bend and Mishawaka) to see what types of businesses operate or operated at one time there and what some of the community impacts have been.

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[11] *SDJ, Inc. v. City of Houston,* 837 F.2d 1268, 1274 (5th Cir. 1988), *cert. denied*, 489 U.S. 1052 (1989). To the same effect, see the plurality opinion in City of Los Angeles v. Alameda Books, Inc., 152 L. Ed. 2d 670, 122 S. Ct. 1728 (U.S. 2002), remanded for further proceedings at 295 F.3d 1024 (9th Cir. 2002).

[12] See *New Albany DVD, LLC v. City of New Albany*, 581 F.3d 556 (7th Cir. Ind. 2009), corrected by 2009 U.S. App. LEXIS 20703 (correcting two typos), cert. den. 2010 U.S. LEXIS 4756 (U.S. June 14, 2010); and *Annex Books, Inc. v. City of Indianapolis*, 581 F.3d 460, 461 (7th Cir. Ind. 2009).

Impact on Property Values – Surveys of Appraisers

Survey of Texas Appraisers – 2008

In 2008, Eric Kelly and Connie Cooper conducted a survey of Texas appraisers as to secondary effects of sexually oriented businesses for the Texas City Attorneys' Association.[13] This study consisted of a survey of a random sample of MAI and SRA designated appraisers in Texas. The survey was completed by 195 appraisers.

The following summarizes the responses of Texas appraisers regarding their professional opinion on the impacts sexually oriented businesses have on market values:

- More than 91 percent believe that a gentleman's club/strip club, adult media/video store (retail only), video peep booth business, and lingerie/adult novelties store have a negative effect on the market value of a single-family home located within 500 feet of such a use;
- More than 71 percent believe that the negative effect on the market value of a single-family home due to the proximity of a sexually oriented business does not disappear until at least a half mile or more (2,640+ feet) from the business;
- More than 80 percent believe that the concentration of two or more sexually oriented businesses increases the negative effect on the market value of a single-family home;
- A majority (64 percent) believe that a video peep booth business, a gentleman's club/strip club, adult media/video store (retail only) or a lingerie/adult novelties store will have a negative effect on the market value of a community shopping center located within 500 feet;
- More than 63 percent believe that the negative effect on the market value of a community shopping center due to the proximity of a video peep booth business, gentleman's club/strip club, adult media/video store (retail only) or a lingerie/adult novelties store does not disappear until at least a quarter of a mile or more (1,320+ feet);
- Nearly 73 percent believe that the concentration of two or more gentleman's club/strip clubs, adult media/ video stores (retail only), or video peep booth businesses increases the negative effect on the market value of a community shopping center;
- More than 89 percent believe that having a retail business that is open after 11 p.m. may have a negative effect on the market value of a single-family home located within 500 feet (10 percent responded "always" and 79 percent responded "sometimes"); and,
- About 94 percent believe that "bright, animated, or garish lighting or graphics" may increase the negative impact on the market value of a single-family home (45 percent responded "always; and another 49 percent responded "sometimes").

To avoid the apparent bias that is likely to be attached to any survey focused on sexually oriented businesses in particular or on problematic land uses in general, the survey asked the appraisers for their

[13] "Survey of Texas Appraisers: Secondary Effects of Sexually Oriented Businesses on Market Values," Connie B. Cooper, and Eric Damian Kelly, in association with David C. Kuehl, Ph.D., and Shawn C. Wilson, MAI, June 2008; the report was included in master report that also included a crime-related study by Richard McCleary, Ph.D., in association with Alexi Alexander, J.D., Larry Bush, M.A., Mark Vasquez, B.A.

opinions of possible positive or negative effects on property values of a religious institution, elementary school or playground, as well as such other problematic uses as a landfill, a pawn shop, high voltage power lines and a homeless shelter. Even in that mix of uses, all of the adult uses ranked near the top of those likely to have negative impacts on residential uses. [14]

Survey of Florida Appraisers – 2008

At about the same time as they conducted the survey of Texas appraisers, Eric Kelly and Connie Cooper conducted a similar survey of MAI and SRA designated appraisers in Florida.[15] The survey was completed by 214 appraisers. It was not surprising that the findings were very similar to those in the Texas survey of appraisers.

The following summarizes the responses of Florida appraisers regarding their professional opinion on the impacts sexually oriented businesses have on market values:

- More than 87percent believe that a gentleman's club/strip club, adult media/video store (retail only), video peep both business, and lingerie/adult novelties store have a negative effect on the market value of a single-family home located within 500 feet of such a use;
- More than 83 percent believe that the negative effect on the market value of a single-family home due to the proximity of a sexually oriented business extends at least a quarter of a mile (1,320 feet) and more than 60 percent believe that it extends more than half a mile (2,620 feet);
- More than 76 percent believe that the concentration of two or more sexually oriented businesses increases the negative effect on the market value of a single-family home;
- A majority (58 percent) believe that a video peep show business, a gentleman's club/strip club or adult media/video store (retail only) have a negative effect on the market value of a community shopping center located within 500 feet;
- About 60 percent believe that the negative effect on market value of a community shopping center by a gentleman's club/strip club, adult media/video store (retail only) and a lingerie/adult novelty store extends at least a quarter of a mile, and about 36 percent believe that it extends a half mile or more;
- Nearly 70 percent believe that the concentration of two or more gentleman's club/strip clubs increases the negative effect on the market value of a community shopping center;
- About 95 percent of Florida appraisers believe that "bright, animated, or garish lighting or graphics" will increase the negative impacts land uses have on the market value of a single-family home(38 percent responded "always" and another 57 percent responded "sometimes"); and,
- More than 88 percent of Florida appraisers believe that having a retail business that is open after 11 p.m. would have a negative impact on the market value of a single-family home located within 500 feet (10 percent responded "always" and 78 percent responded "sometimes").[16]

[14] "Survey of Texas Appraisers," p. 6.

[15] "Survey of Florida Appraisers: Effects of Land Uses on Surrounding Property Values," prepared by Duncan Associates and Cooper Consulting for Palm Beach County, May 2008. Hereinafter cited as "Survey of Florida Appraisers."

[16] "Survey of Florida Appraisers," pp. 16-17.

Survey of Dallas/Fort Worth Appraisers – 2004

In 2004, the City of Fort Worth, Texas retained Cooper Consulting Company and Duncan Associates to complete a survey of Dallas/Fort Worth appraisers on the impacts sexually oriented uses may have on residential and business property values. The firms were assisted in the survey design and the analysis of results by David C. Keuhl, Ph.D., at that time an Assistant Professor of Urban Planning at Ball State University, to assure that the methodology employed to conduct this study was sound. Like the above mentioned 2008 survey of Texas and Florida appraisers, the survey included only appraisers who had met the professional standards of the Appraisal Institute as Members (holding the MAI designation) or as Senior Residential Appraisers (SRA designation). The survey explicitly asked appraisers views about the impact of "off-premise sexually oriented business entertainment (Adult Novelty/Media Store – Retail Only)." Forty MAI and SRA appraisers in Dallas and Fort Worth responded to the survey questionnaire.

The following is a portion of the results of the Survey of Appraisers.

- The survey purposefully included a range of businesses that might affect home or businesses values. The survey gave no indication that it was created to evaluate the impact of sexually oriented uses on appraised values of single family homes and shopping centers. This list included (shown in order as appearing on survey): Neighborhood Park, Religious Institution, Convenience Store (beer/wine license), Public Library, Bar/Lounge, Gentleman's Club/Cabaret, Grocery Store, Bookstore, Adult Novelty/Media Store (Retail only), Office Building, Homeless Shelter, Fire station, Pawn Shop, Adult Arcade/Peep Booth, and Gas Station.
- Appraisers were nearly unanimous in responding that adult-oriented businesses of any kind (stores, arcades, or cabarets) would decrease single-family home property values. Other uses deemed similarly detrimental to property values included homeless shelters, bars, and pawnshops.
- More than 70% of the appraisers judge the influence of adult-oriented businesses on property values to extend beyond 3000 feet. The average distance was between 2700 and 2800 feet.
- The appraisers considered the property values of community shopping centers to be equally detrimentally affected by the proximity of adult-oriented businesses. More than 75% considered these uses to decrease commercial property values.

Survey of Rochester, NY Appraisers – 2000

The City of Rochester, with the assistance of Duncan Associates, conducted a survey of property appraisers in Rochester/ Monroe County, New York, to determine their perceptions of impacts of the *studied businesses*, including sexually oriented businesses, on residential and commercial property values. The method used for gathering the data was to conduct a written survey of property appraisers in Rochester and Monroe County.[17] The survey was completed by 39 appraisers within the city and county and was carried out in context of an over-all update of land development regulations for the City of Rochester. Much of the study focused on a field study of nearly two dozen "existing adult businesses" in the City.

[17] Duncan Associates, "Sexually-Oriented Business Study: Rochester, New York," July 2000 (hereinafter cited as "Rochester Study."

The following summarizes the responses of Rochester/Monroe appraisers regarding their professional opinion on the impacts sexually oriented businesses:

- Sexually oriented businesses have a measurable negative impact on the value of some neighboring property; that impact is greater than the impacts of some other types of businesses considered as undesirable neighborhood land uses.
- To the extent that studied businesses have a negative impact on property values, they have significantly more negative impact on the value of neighboring "residential" property than on the value of neighboring "commercial" property;
- To the extent that studied businesses have a negative impact on property values, they have the greatest impact on properties located on the same block;
- Location of one of the studied businesses along the same street with another property is a less significant factor than location on the same block in predicting the impact on property values; it is a more significant factor than any particular distance separation;
- The impact of studied businesses on neighboring properties decreases, as anticipated, with distance; based on data from this survey, the negative impacts stop somewhere between 1,000 and 1,500 feet; and,
- Based on the combination of responses to questions, if two properties are equidistant from the same studied business, with one located on the same street as the commercial enterprise and the other on another street, the property located on the same street as the studied property will suffer greater impacts.

Survey of Indianapolis Appraisers – 1984

In 1984, the Indianapolis Division of Planning requested the Indiana University School of Business's Division of Research to conduct a survey of appraisers regarding the impacts of adult bookstores on property values. "The survey instrument posited a hypothetical middle income residential neighborhood in which an adult bookstore was about to locate. Respondents were asked to numerically rate the impact of this business on both residential and commercial property values within one block and three blocks of the store. They were also asked to rate a number of potential other uses as to whether they would increase or decrease property values. Finally survey participants were asked to express what they generally felt the effect of adult bookstores was on property values … A 20 percent random sample of members [all members of the American Institute of Real Estate Appraisers] was constructed for the entire nation. In addition, MAI (Member Appraisers Institute) members who practiced in 22 Metropolitan Statistical Areas … of a size similar to Indianapolis were surveyed at the 100 percent level."[18] Of the 1527 questionnaires mailed, 507 were returned (33 percent), split fairly evenly between the 20 percent sample (249) and the 100 percent MSA sample (258).

The following summarizes some of the survey responses from the national survey of appraisers regarding their professional opinion on the impacts of an adult bookstore on residential and commercial property values:

[18] The survey instrument and instructions are included in the Indianapolis study as pages II-II and II-III.

> Overwhelmingly (80%) felt that an adult bookstore located in the hypothetical neighborhood described would have a negative impact on residential property values of premises located within one block of the site. Of these, 21% felt that the property value would decrease in excess of 20%, while 59% foresaw a value decrease from 1% to 20%. One-fifth of the respondents saw no resulting change in residential property values.
>
> Seventy-two percent of the respondents also felt that there would be a detrimental effect on commercial property values at the same one block radius. Only 10%, however, felt that the effect would exceed 20% of worth with the majority (62%) seeing a 1% to 20% decrease in value. 28% of the survey predicted that there would be no negative effect.
>
> While the great majority of appraisers felt that the effect of an adult bookstore on property within one block of the site would decrease property values, they felt that this impact fell off sharply as the distance from the site increased ...[19]

The survey also asked the degree to which adult bookstores affect property values generally and the basis for this opinion.

> A substantial-to-moderate negative impact was projected by 50% of the respondents. Twenty-nine percent felt that this was because it attracted "undesirables" to the neighborhoods in which they were located, while 14% felt that it creates a bad image of the area and 15% felt that the use offended prevailing community attitudes so that home buyers/customers would be discouraged ...
>
> A number of survey respondents (20%) saw the potential impact on a neighborhood as being contingent on certain variables. 28% of those felt that it would depend on the existing property values in the area as well as the subjective values of its residents. 23% felt that development standards such as façade and signage would determine impact...[20]

The following summarizes some of the survey responses from the appraisers in Metropolitan Statistical Areas similar to Indianapolis regarding their professional opinion on the impacts of an adult bookstore on residential and commercial property values:

> As in the nationwide survey, respondents overwhelmingly (78%) indicated that an adult bookstore would have a negative effect on residential property values in the neighborhood described if they were within one block of the premises. 19% felt that this depreciation would be in excess of 20%, whereas 59% foresaw a decrease in value of from 1% to 20%.
>
> Sixty-nine percent saw a similar decrease in commercial property values within one block of the adult bookstore ...
>
> Once again, the negative impact observed within a one block radius of the adult bookstore fell off sharply when the distance was increased to three blocks....[21]

From the survey of appraisers in metropolitan areas, the study also found that:

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[19] Indianapolis Study, p. 34.

[20] Indianapolis Study, p. 38.

[21] Indianapolis Study, p. 40.

> The nature of this impact on property was contingent on a number of factors in the minds of 32% of the respondents. ... Exterior factors such as signage and building facade quality were seen by 16% as the determinant....[22]

Impact on Criminal Activity

Theoretical Framework

In a landmark article in 1979, Lawrence Cohen and Marcus Felson argued that most crime evolves from combinations of circumstances that occur as people carry out their "routine activities."[23] Their common-sense but well-researched approach identified three elements of crime: a likely offender, a suitable target, and the absence of a capable guardian.[24] Their approach has been well-accepted and widely documented by others.[25] In a later article, Felson cited the occurrence of crime as a "systematic accident," or an event that in itself may be surprising to the victim, but that from a social science perspective, is statistically predictable.[26] One group of scholars later noted that:

> The most important contribution of routine activities theory is the argument that crime rates are affected not only by the absolute size of the supply of offenders, targets or guardianship, but also by the factors affecting the frequency of their convergence in space and time.[27]

In 1998, his book *Crime and Everyday Life*,[28] Felson expanded on the topic of routine activities theory describing how offenders are affected by the combination of circumstances that arises in the predatory crime triangle:

> Note the difference between "likely offender" and simply "offender." Many people are likely offenders or possible offenders but not actual offenders. They need a chance to put their criminal inclinations into action. If they cannot get suitable targets with guardians absent, they may not be able to do so.[29]

The Concept of Guardianship

In *Crime and Everyday Life*,[30] Felson described the likely offender, suitable target, and the absence of a capable guardian as the sides of a "predatory crime triangle"[31] and explained the concept of guardianship:

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[22] Indianapolis Study, p. 46

[23] Lawrence Cohen and Marcus Felson, "Social Change and Crime Rate Trends: A Routine Activity Approach," *American Sociological Review*, 44 (4), 1979, pp. 588–608

[24] Cohen and Felson, 1979.

[25] A quick search in one electronic data base found it cited 188 times (Academic Source Premier, search by Kelly, November 2006); an authority in the field says that it was cited more than 600 times in 2005 alone (personal communication to Kelly and Cooper by Richard McCleary, Ph.D., a criminologist at the University of California – Irvine).

[26] Felson, M. (1987). "Routine Activities and Crime Prevention in the Developing Metropolis." *Criminology*, 25(4), 911-934.

[27] Sherman, L. W., Gartin, P. R., & Buerger, M. E. (1989). "Hot Spots of Predatory Crime: Routine Activities and the Criminology of Place." *Criminology*, 27(1), 821-849.

[28] Felson, M. (1998) *Crime and Everyday Life, Second Edition* . California: Pine Forge Press.

[29] Felson, M. (1998).

[30] Felson, M. (1998).

> The most significant guardians in society are ordinary citizens going about their daily routines.... Even strangers can serve as guardians by being nearby and thus discouraging offenders, however inadvertently. As you can see, a guardian is not usually someone who brandishes a gun or threatens an offender with quick punishment, but rather someone whose mere presence serves as a gentle reminder that someone is looking.[32]

Felson also cited the work of Oscar Newman,[33] who developed the concept of "defensible space" for Newman's identification of four types of space, in a continuum: public space; semi-public space; semi-private space; and private space.[34] This concept is important in considering the concept of "guardianship." Citing the work of Jane Jacobs,[35] Felson argued persuasively that semi-public space, such as small streets, is subject to guardianship by neighbors, whereas public space is not.[36]

Suitable Targets

It is also useful to understand what makes a target "suitable" in Felson's terms. He identifies four characteristics that affect the value of a target: value, inertia, visibility and access.[37] The concept of value is obvious, but the idea of inertia may offset value. Felson cites the example of washing machines, which are quite valuable but which have high inertia because they are difficult to move. Cash, of course, is a highly sought target, because it has high value and low inertia. Visibility relates to the relative value of targets in the sense of the old saw, "out of sight, out of mind," although Felson and others note that visibility of known functions (such as that of a convenience store cashier) may actually reduce their value as targets by providing a broader potential set of guardians.[38] Access in Felson's terms has as much to do with escape routes as with original access to a target, and he notes that gridded street patterns provide ideal access in criminal terms, a circumstance that is even improved when the grid connects in a short distance to a freeway or other major exit route.[39]

The Environment for Crime

Felson also argues that there is an "ecosystem" of crime and that crime feeds on crime – or, to state it simply, "Let crime increase in one way and it will increase in other ways."[40] He cites the examples of prostitution and drug dealing moving into an entertainment district and creating an environment that attracts other criminal activity, but the argument could start just as easily with underage drinking.

Applying the concept of "Crime Prevention through Environmental Design" (see www.cpted.net), some planners and public safety officials now work together to create physical environments that discourage crime. The three basic approaches to CPTED include controlling natural access, providing natural

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[31] Felson, M. (1998).
[32] Felson, M. (1998).
[33] Newman, Oscar. *Defensible Space: Crime Prevention Through Urban Design.* (1972) New York: Macmillan.
[34] Felson, M. (1998) citing Newman, Oscar. (1972).
[35] Jacobs, Jane. *The Death and Life of Great American Cities* (1961) New York: Random House.
[36] Felson, M. (1998) citing Jacobs, Jane. (1961).
[37] Felson, M. (1998).
[38] Felson, M. (1998).
[39] Felson, M. (1998).
[40] Felson, M. (1998).

surveillance and fostering territorial behavior.[41] Felson argues that "natural" surveillance strategies, which "result from the design and layout of space" are superior to "organized" strategies (security guards or police) or mechanical strategies (alarms, cameras and so on) both because the natural strategies are less costly and because they tend to prevent crime from occurring in the first place.[42]

Garden Grove Study

Of the many studies undertaken with regard to sexually oriented businesses and their effects on crime rates, one study stands out because of the depth and rigor of its examination of the relationship between changes in the operations of sexually oriented businesses and the rate of crime in the surrounding area. That study was prepared for Garden Grove, California in 1991 by Richard McCleary and James Meeker.[43]

The Garden Grove Study included a rigorous examination of the relationship between the locations of criminal activity and the establishment or expansion of adult entertainment businesses. Although not noted in the title, it also included surveys of real estate professionals and a household survey.

The study included the examination of 34,079 crimes over 10 years.[44] The authors reported that they were able to determine the location of crimes within 40 feet with a 99 percent confidence level.[45] Most other studies of this subject have compared criminal activity in an area with an adult entertainment establishment to such activity in a "control area" without such an establishment; critics often allege that the two areas are not really comparable for a variety of other reasons. This study avoided that pitfall by examining the changes in patterns of criminal activity in the same area when there was a new adult entertainment establishment opened or an existing establishment expanded.[46] The researchers also examined the effects of the opening or closing of a tavern or bar within 1000 feet of an adult entertainment establishment.[47]

McCleary's and Meeker's major conclusions were:

- Crime rises whenever an adult business opens or expands its operation, and the change is statistically significant. The rise is found in the most serious crimes, especially assault, robbery, burglary and theft. The rise in "victimless" crimes (drug and alcohol use, sex offenses, etc.) is also significant, though less consistent and interpretable. Given the nature and magnitude of the effects, the adult businesses on Garden Grove Boulevard constitute a serious public safety hazard. [emphasis in the original]
- When an adult business opens within 1000 feet of a tavern (or vice versa), the impact of the adult business on crime is aggravated substantially and significantly.[48]

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[41] Felson, M. (1998).

[42] Felson, M. (1998).

[43] "Final Report to the City of Garden Grove: the Relationship between Crim and Adult Business Operations on Garden Grove Boulevard," Richard W. McCleary, Ph.D., James W. Meeker, J.D., Ph.D., October 23, 1991 (hereinafter cited as "McCleary and Meeker").

[44] McCleary and Meeker, p. 3.

[45] McCleary and Meeker, p. 3.

[46] See discussion of methodology at McCleary and Meeker, pp. 25-32.

[47] McCleary and Meeker, pp. 30-32.

[48] McCleary and Meeker, p.4.

Local Perspective

In LaPorte County, with many scattered municipalities and residential subdivisions in every township in the County, it is virtually impossible to find a location for a sexually oriented business that is not in proximity to a residence or business. Superficially it might seem that finding a location that is at least several hundred feet from the nearest residence might help to mitigate the crime problem. Look back, however, at Felson's crime analysis discussed above. Two of the things that criminals seek are easy escape routes and "low guardianship." The escape routes from locations near the Interstate are almost ideal for criminals, and the network of County roads provides them with a number of options. As to guardianship, at isolated businesses in a rural area, there may be no one who pays attention to what happens on surrounding property or even behind the building. The best guardianship occurs in stable areas, enclosed and managed malls, and cohesive downtown and neighborhood shopping districts. A scattering of businesses in rural areas provides little guardianship and, according to Felson, may lead to a higher incidence of criminal activity. In short, in a rural area there may be fewer pedestrians and other passersby exposed to crime that is engendered by a high-impact business – but there may actually be more crime, because of the easy escape and the low probability of a neighbor intervening to stop a crime.

As noted earlier, LaPorte County has only one sexually oriented business; all other sexually oriented businesses that are a part of this study are located outside the County in Gary, Hobart, Lake Station, and South Bend. We are in the process of collecting data from the local police departments as well as the Indiana State Excise Police on what criminal or civil infractions have taken place within these existing businesses.

Impact on Public Health

Studies and Judicial Findings

The issue of health impacts and sexually oriented businesses is a major concern primarily related to sexual activity that takes place within sexually oriented businesses that offer video view booths. It can also be a concern in sexually oriented theaters – particularly those with "flexible" seating – and in establishments with live entertainment where there is direct physical interaction between patrons and performers.

In our work related to litigation over a proposed video store with viewing booths in the small city of Alachua, Florida, the city attorney hired a former Alachua County Sheriff's deputy, turned private investigator, to conduct an investigation of two establishments with viewing booths located in other parts of Alachua County. The investigator gathered samples of paper towels left in trash cans in the arcade areas of these establishments; he sealed the paper towels in plastic bags and submitted them to Quest Genetics, a laboratory in Gulfport, Mississippi. Of five samples submitted to the laboratory, four tested positive for semen. Subsequent testing at the University of Nevada Medical School showed that there was semen from more than one "donor" on each sample towel. This evidence showed clearly that the booths in these arcades are being used for some sort of sexual activity.

There has been a good deal of litigation over the regulation of sexually oriented businesses in Northern Indiana, most of which is discussed in another section of this report. Two court decisions, however,

included specific findings related to specific negative secondary impacts. Those are presented here, along with other authoritative sources of such facts.

Public health was an issue in *Pleasureland Museum, Inc. v. Beutter*,[49] involving the town of Mishawaka's efforts to address secondary effects of a retail store with viewing booths. The city won some and lost some in this case. Importantly, the court upheld the "open booth" requirements applied to the video viewing booths:

> We are satisfied that Mishawaka's goals of preventing the spread of disease and maintaining sanitary and safe conditions at sexually-oriented businesses "would be achieved less effectively absent the [open booth] regulation."[50]

In Gary, in granting the City's motion to dismiss a challenge to a 2000 ordinance regulating sexually oriented businesses, a federal magistrate judge held in part:

> In addition to these cases and the numerous secondary effects reports from other cities cited in the Ordinance itself, the City of Gary supported its motion for summary judgment with crime maps, police reports regarding prostitution and drug dealing, reports of criminal activity in and around adult businesses, including book and video stores, and affidavits of private investigators attesting to unsanitary conditions in video observation booths.... The court finds that this evidence fairly supports the City's proffered rationale that an Ordinance is necessary to reduce crime, transmission of sexual diseases, and urban blight.[51]

In rejecting a challenge to the "open booth" portion of the Gary ordinance, the magistrate relied on this record:

> In this case, the City of Gary has made findings, with reliance on its own investigative reports and case law specific to other municipalities' experiences with closed booths, that "[s]exual acts, including masturbation, and oral and anal sex, occur at unregulated sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows." (Ordinance 2000-83(B)(3)) In addition, the City has made numerous findings regarding the sanitary conditions and presence of bodily fluids in viewing areas, the prevalence of AIDS, HIV infection, and other sexually transmitted diseases, and the likelihood that removal of doors and sufficient lighting will reduce the spread of these diseases by reducing illegal sexual activity in areas where films are viewed.[52]

Local Perspective

In our work with other jurisdictions as well as while visiting businesses in Gary and South Bend which had video viewing booths in conjunction with video rentals and sex toys, we have found a substantial number of operational problems at establishments with video arcades and viewing booths. Several of these

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[49] *Pleasureland Museum, Inc. v. Beutter*, 288 F.3d 988 (7th Cir. Ind. 2002). Note that Pleasureland Museum was formerly located at 114 West Mishawaka Avenue in Mishawaka, but is now a vacant lot.

[50] 288 F.3d at 1004.

[51] *Andy's Rest. & Lounge, Inc., v. City of Gary*, Case No. 2:01 cv 327 (N.D. Ind. 2005), at 25, aff'd 466 F.3d 550 (7th Cir. Ind. 2006).

[52] *Andy's Rest. & Lounge, Inc., v. City of Gary*, at 22.

establishments, including one in Gary, had video booths with "glory holes" between them. In one such establishment, there was a periodic "scramble" as male patrons came into the hallway, apparently sizing up other patrons, and then selected new booths from among those that were both occupied (or about to be so) and penetrated by glory holes.

In these types of businesses, we often observe liquid stains on the walls and floors of the video viewing booths, consistent with police reports and studies from other communities indicating that sexual activity within the booths leads to the deposit of human semen and other bodily fluids in the booths.

Many of the establishments purport to control access to the arcade by requiring that anyone entering the arcade pre-purchase tokens or cards for use in the booths. Enforcement of this requirement varied widely by establishment and seemed to have little effect on patron behavior. In South Bend, the video store with video booths had a disproportionate number of males sitting outside in vehicles seemingly waiting for someone to drop by.

Other Important and Pertinent Studies

Austin Texas: The Office of Land Development Services, City of Austin, prepared a report entitled, "Report on Adult Oriented Businesses in Austin" dated May 19, 1986. The study includes comparative neighborhood studies for multiple pairs of neighborhoods, finding increased crime rates in those neighborhoods with sexually oriented businesses.

Denver, Colorado: Multiple city departments prepared a report for the Denver City Council entitled, "A Report on the Secondary Impact of Adult Use Businesses in the City of Denver" dated January 1998. The study includes reports from property owners and business operators about negative effects sex businesses on the value of nearby property. The study also found prostitution associated with a number of sexually oriented businesses.

Los Angeles, California: The City Planning Department prepared a report for the Planning Committee of the Los Angeles City Council entitled, "Study of the Effects of the Concentration of Adult Entertainment Establishments in the City of Los Angeles," dated 1977. The report includes surveys of appraisers and real estate agents, more than 90 percent of whom believed that there would be a negative effect on the values of residential property located within 500 to 1,000 feet of a concentration of sex businesses. The study also found significantly higher rates of crime in areas with concentrations of sexually oriented businesses.

New York City: Department of City Planning, New York City, New York. "Adult Entertainment Study." 1994. Like many other studies, this one included summaries of studies from other communities. It also referred to a rich background of data and studies from the City. Evidence compiled by city staff for this study showed that the historic concentration of sex businesses in and around Times Square had resulted in significant negative impacts, including economic decline, decreased property values, increased crime and reluctance of many people to go there. A survey of business owners showed that they believed that their businesses had been adversely affected by SOBs. The study found that it was more difficult to measure the impacts of the businesses in other boroughs where they were less concentrated Eighty percent of real estate brokers responding to a survey indicated that an SOB would have a negative impact on property values (consistent with the national survey in the Indianapolis study).

Phoenix, Arizona: The Planning Department for the City of Phoenix prepared a report entitled, "Adult Business Study" dated May 25, 1979. Using paired neighborhood studies, the report finds increases in both property crime and crimes against persons in neighborhood with sexually oriented businesses.

Tucson, Arizona: A police memorandum was prepared by Michael Leverenz, Assistant Chief of Police, Investigative Services for the City of Tucson entitled, "Adult Entertainment Ordinance" dated May 1, 1990. The report found significant sexual activity, including masturbation and sexual interaction between customers and performers, in a number of sexually oriented businesses. It also found sperm samples on floor and walls of multiple peep show booths.

Whittier, California: The study entitled, "Staff Report, Whittier City Planning Commission; Subject: Adult Business Regulations" is dated July 11, 1994. The report found dramatically higher turnover rates in residential properties located in areas with sexually oriented businesses than in other parts of the city. It also found significant increases in crime in area in which sexually oriented businesses had located; the rate of increase was much higher than in rest of city. The report also found prostitution associated with sexually oriented businesses.

Recommendations

Licensing Recommendations

Who or What Should Be Licensed

We recommend that LaPorte County adopt a comprehensive licensing ordinance for certain sexually oriented businesses and employees/contract workers. Specifically, licensing should apply to:

- All sexually oriented businesses that offer any form of on-premises entertainment;
- All owners of such sexually oriented businesses, including persons with a controlling interest in a corporation, LLC, partnership or other entity operating such a business;
- All managers of such licensed sexually oriented businesses; and,
- All entertainers in sexually oriented businesses, whether such entertainers are employees or independent contractors.

Licensing Ordinance Must Contain

We recommend that the comprehensive licensing system include clear criteria for granting the licenses. The licensing ordinance must contain:

- Objective criteria for granting or denying the license;
- A clear (and relatively short) time limit on the review period for a license application, ending in an actual decision;
- An available direct appeal to the courts without significant additional local procedures; and,
- Automatic grant of a temporary license to allow an existing business to continue to operate pending completion of the licensing process

Criteria for License Disqualification

Background checks should be required for individual license applicants and for owners of establishments; if the establishment is incorporated, the background checks should include owners or board members of the corporation. Criteria for disqualifying a person should include:

- Under age of 18;
- Conviction within the last five years of a crime under any of these portions of the Indiana criminal law or comparable provisions in another jurisdiction: Title 35, Article 24 (Narcotics and Marijuana); Title 35, Article 24.1 (Controlled Substances); Title 35, Article 30 (Public Indecency); Title 35, Article 42, Chapter 3.5 (Human and Sexual Trafficking); Title 35, Article 42, Chapter 4 (Sex Crimes); Title 35, Article 45, Chapter 4 (Public Indecency and Prostitution); Title 35, Article 48 (Controlled Substances); and Title 35, Article 49 (Obscenity and Pornography);
- Sexually oriented business license revocation or suspension in another jurisdiction within past five years; or
- False information provided on license application.

Operating Principles

Here are some important administrative provisions dealing with the licenses:

- Require sexually oriented business license to be posted prominently near the entrance or manager's station;
- Require manager's license to be with sexually oriented business license (ensures law enforcement or inspector can easily locate and/or deliver citation to person in charge);
- Licenses of individual performers should be maintained in a file and available for inspection by law enforcement personnel but should not be publicly posted;
- Social security number, birth date, home address, drivers' license number which may be required for background checks should be retained by County as background information that is not subject to public review (although the existence or non-existence of licenses for a particular person or entity should be public);
- Require a licensed manager on duty at all times at a licensed establishment; and,
- Stipulate management is responsible for ensuring conformance with the sexually oriented business license's operating criteria and conduct at the business location and any violation on the premises will be considered management's problem, regardless of whether an owner or manager was directly involved in the violation.

Operating Criteria for ALL Sexually Oriented Businesses

It should be the responsibility of management to enforce the following operating standards, and any failure to achieve these standards should be grounds for license suspension or revocation:

- No prostitution or solicitation of prostitution on or about the premises;
- No dealing in or consumption of drugs or other unlawful substances on or about the premises;
- No loitering inside the premises or in the immediate vicinity outside the premises;
- No sex acts, including masturbation, on the premises;
- No discharge of bodily fluids (outside of the restrooms);
- No one under the age of 18 permitted on premises for any reason; and,
- The establishment should be responsible for ensuring that the first four standards are enforced in the parking lot, in any yard and on public sidewalks adjoining the premises, as well as inside the premises.

  NOTE: Some of these may be posted on front door – such as 18 years of age, loitering, etc.

  NOTE: May want to require video monitoring of inside and outside of premises.

Operating Standards for Sexually Oriented Video Arcades

We recommend prohibiting new video arcades, but we understand that the task force has discussed allowing them. IF LaPorte County chooses to permit sexually oriented video arcades, the following operating criteria should include:

- Ensure that all parts of any new arcade are directly visible from a central check-out station or manager's station;
- Prohibit any door or other obstruction that prevents fully viewing the inside of the booth from the manager's station (reasonable period of delay for implementation related to existing business);
- Require metal plate between booths that adjoin one another to prevent "glory holes;"
- Limit one person per booth;
- Establish minimum lighting standards for the hallways outside the booths;
- Implement sanitation standards for the booth areas and hallways around them; and,
- Do not treat sexually oriented video arcades as an accessory use to other sexually oriented businesses such as a sexually oriented media store.

For an existing arcade that may have vested rights to its current physical configuration, the local jurisdiction should consider requiring removal of doors from the booths and adding video monitoring to the arcade.

Operating Standards for Adult Cabarets

We recommend the following operating criteria for adult cabarets:

- Require that all performances and all interactions between performers and customers occur in a space of at least 600 square feet (eliminates "back rooms" or so-called "VIP rooms");
- Require dancers to interact with customers only while on stage that is at least 24 inches high and with a horizontal bar to keep customers a reasonable distance from edge of the stage within an area fully viewable by all patrons; and,
- Prohibit touching between dancers and customers except for hand-to-hand touching for the purposes of tipping (note that this is the most difficult recommendation to enforce).

Operating Standards for Sexually Oriented Theaters

We recommend that the operating criteria for sexually oriented motion picture theaters include:

- Require the viewing of sexually oriented videos or movies to take place within a room no less than 600 square feet;
- Require low-level lighting be maintained in the theater at all times (but lighting levels should be low enough that room lighting does not interfere with the ability to see detail on the screen);
- Require permanent seating having arms with individual seats no larger than 22 inches in width or backs no higher than 25 inches; and
- Do not treat sexually oriented theaters as an accessory use to other sexually oriented businesses such as a sexually oriented media store or video arcades.

Zoning Recommendations

Uses Not Considered Sexually Oriented

Many businesses often carry a small amount of sexually oriented media and/or sexually oriented devices mixed in with other merchandise. This includes such magazines as Playboy, Penthouse, and Hustler and sexual devices such as vibrators. But this is not their principal line of business and thus should not be

regulated as "sexually oriented" businesses. Other businesses have "backrooms" where sexually oriented media are available for sale or rent. These backrooms are often found as an adjunct operation to a traditional video store like "Family Videos." Thus we recommend the following:

- Retail business having less than 10% of stock or floor or display area (including portions of aisles necessary to view or access such displays) devoted to sexually oriented media and/or sexual devices should be treated like any other retail business; and,
- Retail business with backrooms devoted to sexually oriented media should be treated like any other retail business if
    a. Sexually oriented media does not constitute more than 35% (number can vary within reason) of the stock or floor area or display area of the business;
    b. Sexually oriented media is within a separate room;
    c. Access is via solid door posted as limited to persons 18 years or older;
    d. Access is controlled (physically or electronically) by store employee;
    e. Room is monitored by manager or clerk on duty through window giving view of entire space or with video visible at check-out counter; and,
    f. Business does not advertise or hold itself out in any forum as a "XXX," "adult" or "sexually oriented" media and/or merchandise business.

Prohibited Uses

We recommend that the Zoning Ordinance lists sexually oriented uses that are prohibited, such as:

- Sexually Oriented Bath House;
- Sexually Oriented Body Painting Studio;
- Sexually Oriented Encounter Center;
- Sexually Oriented Escort Business;
- Sexually Oriented Lingerie or Swimwear Modeling Studio;
- Massage studio or business not operated by or under the supervision of a medical professional or by a person licensed to practice massage therapy by the State of Indiana;
- Sexually Oriented Modeling/Photography Studio;
- Presentation of videos or similar media for a fee in a space of less than 600 square feet (one existing establishment in Michigan City should be "grandfathered" in, subject to a requirement to remove doors from booths and install video monitoring equipment by a date certain;
- Any permitted sexually oriented business that includes as part of its business any above business (accessory use); and,
- More than one sexually oriented use on any lot, parcel or tract.

Permitted Sexually Oriented Uses

We recommend that the Zoning Ordinance lists those sexually oriented uses that are expressly permitted within certain zoning districts, such as:

- Sexually oriented media store;
- Sexually oriented retail store – add phrase "offering two or more of the following" ... sexual devices, sexually oriented media, lingerie, leather goods or accessories marketed in context for sadomasochistic practices;
- Sexually oriented cabaret; and,
- Sexually oriented motion picture theater;

  NOTE: Clearly state in ordinance that none of the above businesses may co-locate.

Fencing and Screening

Some of the problematic activity around sexually oriented businesses occurs in parking lots. That can be limited by ensuring that the parking lots are well-lighted and visible from the public street. Standards should include:

- Specific lighting standards for the parking lot, consistent with other lighting standards for commercial uses and with appropriate standards to limit light spillage onto nearby property; and,
- Prohibition of any fencing or other structure exceeding three feet in height that obstructs the view of the parking lot or entrance ways of the business from the nearest public street.

Suitable Locations

We recommend that LaPorte County provide a reasonable number of locations in which sexually oriented businesses protected by the First Amendment can lawfully operate. The locations that best balance the needs of the industry and the concerns of the community are locations that:

- Are not on the same block with predominantly residential uses or districts or with other sensitive uses;
- Are not located along major pedestrian routes, particularly not those that are likely to be frequented by children;
- Are generally surrounded by other intense commercial or other nonresidential uses; and
- Do not result in a significant concentration of the businesses in one area.

Combining all of these concerns with the obvious desire of sexually oriented businesses to have locations that are reasonably accessible and reasonably visible suggests that they are best located in:

- In freestanding buildings along major arterials with little pedestrian traffic (but not in areas where commercial is only a half-block deep and there are residences behind);
- Industrial areas that are not in close proximity to residences and other sensitive land uses; or,
- Large strip shopping centers in intensely commercial areas (best suited for retail-oriented businesses such as sexually oriented media stores).

Separation from Sensitive Uses and Adult/Sexually Oriented Uses

The separation of sexually oriented businesses from such sensitive uses as residences, schools and houses of worship is an essential element of an effective regulatory program. It is important to allow sexually oriented businesses to be in locations where they remain accessible to customers but where families will

not unwittingly encounter them in the course of their daily activities such as walking their dogs, walking to the bus stop, or traveling to schools or worship services. In more rural areas, it is will be difficult if not impossible to locate such businesses that will avoid incidental contact, such as driving past a business while traveling on a state route. We recommend the following list of sensitive land uses and other businesses from which separation should be provided:

Sensitive Land Uses

- Residences or residentially-zoned land;
- Public, private or parochial school;
- Library;
- Park, playground or other recreation facility which admits minors;
- Day care center or nursery school;
- Place of worship (permanent building); and,
- Governmental or other civic building; or,
- Facility catering primarily to persons under the age of 18, such as skating rink, boys or girls club or other similar use.

Adult-Oriented or Other Sexually Oriented Land Uses

- Establishment selling alcohol for on-premise consumption;
- Pool or billiard halls;
- Tattoo parlors; or
- Other sexually oriented business.

Separation Distances

The Zoning Ordinance applies to not only the more urban areas of Michigan City and the City of La Porte, but to the less populated towns and more rural areas of LaPorte County. Michigan City has approximately 31,500 people within its 22 square miles, while the City of La Porte has approximately 22,000 people within its 12 square miles. In contrast, LaPorte County and the remaining nine small towns contain 58,000 people scattered across the remaining 579 square miles of the County. The two major cities in LaPorte County maintain their own police force and employ a number of other regulatory staff, and thus can be more responsive to issues related to sexually oriented businesses. The remainder of the County is the responsibility of the LaPorte County Sheriff's Department and a few smaller police services.

In addition, sexually oriented businesses located in more rural areas and small communities, are often substantially more noticeable due to the lack of nearby businesses or other developments. In simple terms, the secondary effects on property values are more expansive due to the lack of intervening development within these rural locations. Given this, there may be justification for having two levels of distance separations related to sexually oriented uses.

Our surveys of appraisers in other states fully support separation distances of a half-mile or more from residential districts; note that most crime studies suggest that the major secondary impacts of businesses

that may attract criminal activity are limited to an area of 500 or 600 feet (roughly one long city block) around the business.

NOTE THAT it may be necessary to modify these distances to ensure that there are enough sites available to meet the "adequate alternative avenues" test.

Small Towns and Unincorporated Areas of LaPorte County

- 1500-foot separation from sensitive uses for sexually oriented businesses without on-premise entertainment;
- 2500-foot separation from sensitive uses for sexually oriented businesses with on-premise entertainment; and,
- 2500-foot separation between sexually oriented businesses.

Michigan City and City of La Porte

- 1000-foot separation from sensitive uses for sexually oriented businesses without on-premise entertainment;
- 1500-foot separation from sensitive uses for sexually oriented businesses with on-premise entertainment; and,
- 1500-foot separation between sexually oriented businesses.

Measuring Separation Distances

We recommend that distance be measured from the nearest point of contact with the building housing the sexually oriented business or to the business's parking lot (whichever is closest to the sensitive or adult/sexually-oriented use) to the property line of the sensitive or adult/sexually-oriented use from which the sexually oriented business must be separated. Because some of sexually oriented businesses may be located on very large lots, particularly in less populated areas of the LaPorte County, measuring from the business's property line to the property line of the sensitive use or other adult/sexually-oriented use could create an unreasonable distance of separation.

Testing Available Sites

We recommend that LaPorte County "test" the availability of suitable sites within the zoning districts that permit sexually oriented businesses. The "testing" should factor in the required separation standards and standards of reasonable access – can't be one large industrial site with no access or substantial mitigation required to develop. It can be occupied sites that would be available for lease or purchase sometime in the future.

Submissions for Zoning Approval

We recommend that information for approval of the permitted sexually oriented business should include a site plan reviewed by staff. This would include information on confirmation of distance separation from sensitive or adult/sexually oriented uses, parking, signage, fencing and interior layout and proposed lighting, and other information that LaPorte County routinely requires for granting of permits.

Some Suggested Definitions

- BATH HOUSE, SEXUALLY ORIENTED – An enterprise where a portion of its business is offering baths and/or showers with other persons present who are nude or displaying specified anatomical areas.
- BODY PAINTING STUDIO, SEXUALLY ORIENTED – An establishment where a portion of its business is the application of paint or other substance to or on the human body by any means of application, technique or process when the subject's body displays for the patron's view specified anatomical areas.
- ENCOUNTER CENTER, SEXUALLY ORIENTED – A business or enterprise that offers physical contact between two or more persons when one or more of the persons is in a state of nudity or semi-nudity, for the purpose of engaging in specified sexually activity or touching specified anatomical areas, but not including a sexually oriented cabaret or nightclub.
- LINGERIE OR SWIMWEAR MODELING STUDIO, SEXUALLY ORIENTED – An establishment or business that provides the services of live models modeling lingerie, bathing suits, or similar wear to individuals, couples, or small groups.
- MEDIA, SEXUALLY ORIENTED – Media which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas."
- MERCHANDISE, SEXUALLY ORIENTED – This term includes any of the following categories of merchandise: lingerie presented in combination with other merchandise contained within this definition; leather goods marketed or presented in a context to suggest their use for sadomasochistic practices; condoms or sexual lubricants presented in combination with other merchandise contained within this definition; sexually oriented novelties; and sexually oriented media.
- MODELING/PHOTOGRAPHY STUDIO, SEXUALLY ORIENTED – Any place where a person who appears nude or semi-nude or in a state of nudity or semi-nudity and is to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. A Sexually Oriented Modeling / Photography Studio does not include educational classes in conjunction with an accredited private or public college, junior college, or university or that of an individual artist studio established solely for conduct of the artist.
- NUDITY OR STATE OF NUDITY – The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the covered male genitals in a discernibly turgid state. See, also, Semi-nude.
- SEMI-NUDE OR IN A STATE OF SEMI-NUDITY – The showing of the female areola or nipple with less than fully opaque covering. Showing of any other part of the anatomy defined under nude or state of nudity shall constitute being nude or in a state of nudity.
- SPECIFIED ANATOMICAL AREAS – Areas that include less than completely and opaquely covered human male or female genitals, pubic area, vulva, anus, or anal cleft or the human female areola or nipple; or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Concluding Comments

LaPorte County is clearly a part of "the Region," as many locals call at least the Indiana portion of the Chicago metropolitan area. Although the County's population density and the continued agricultural activity might suggest that it is a rural area, it is surrounded by urban activity. The types of services, products and activities that we observed in the businesses in surrounding counties is similar to what we have found in larger cities rather than what we have seen in smaller cities or truly rural areas. There is already a casino in Michigan City which has brought one form of adult entertainment to the area (gambling). Any sexually oriented business that opens in LaPorte County will be competing with the urban-type businesses that we found in Gary, Lake Station, and South Bend and can be expected to offer similar products and services – and may be similarly tolerant of activities that may skate on the area of the law. For that reason, we believe that studies of relevant business types from midsize and larger cities will be more relevant to predicting the negative secondary effects that may occur in LaPorte County than will available studies from truly rural areas and small towns.

Although we strongly recommend to LaPorte County and at least the major cities within it (Michigan City and LaPorte) that they address the issues outlined in this report with zoning ordinance amendments and with an effective licensing ordinance, we do not mean to suggest that we think the County is about to be over-run by sexually oriented businesses. The market seems to be growing marginally, but the regional market is partly satisfied by the businesses in Lake and St. Joseph Counties. Because two major Interstate highways run through the County and because there are two casinos near those Interstates, we would not be surprised to see someone seriously pursue an application for an adult cabaret somewhere in LaPorte County. Adult-oriented retail stores have been expanding into markets that look very much like LaPorte County – and one of the major chains in the field is based nearby, in Columbus, Ohio. Thus, we would not be surprised to see an additional retail store or two in the County within the next couple of years. We would be very surprised, however, to see serious efforts to create more than one or two cabarets and one or two retail stores. Although the state of Constitutional law is such that the County and cities must allow sites for sexually oriented motion picture theaters, it appears that no one is building those anymore – that is one aspect of the business that has disappeared with the wide availability of other media outlets.

In conclusion, the County and its municipal jurisdictions must have sites available for sexually oriented businesses to locate, but based on potential demand, we believe only a small number of these available sites will be actually developed for sexually oriented businesses.

Appendix

List of Sexually Oriented Business Studies

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Office of Land Development Services, City of Austin, Texas. "Report on Adult Oriented Businesses in Austin." May 19, 1986.

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Peter Malin, MAI for the Office of the City Attorney, "An Analysis of the Effects of Sobs on the Surrounding Neighborhoods in Dallas, Texas," City of Dallas, Texas, April 1997.

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"Survey Regarding Businesses with Video –Viewing Booths or with Significant or Substantial Portion of their Stock in Trade in Adult Material," Connie B. Cooper, and Eric Damian Kelly, in association with Oedipus, Inc., City of Kansas City, Missouri, 1998.

City of Las Vegas, Nevada. "City Commission Public Hearing Minutes Amending Title XI of the City Code Adding Prohibiting the Establishment of Sexually Oriented Businesses in Certain Areas of the City." March 15, 1978.

Los Angeles City Planning Department, City of Los Angeles, California. "Study of the Effects of the Concentration of Adult Entertainment Establishments in the City of Los Angeles." Prepared for the Planning Committee of the Los Angeles City Council. June 1977.

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Planning Department, New Hanover County, North Carolina. "Regulation of Adult Entertainment Establishments in New Hanover County." July 1989.

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Jon Stephen Gustin, Retired Sergeant, Oklahoma City Police Department, City of Oklahoma, Oklahoma. "Quality of Life: A Look at Successful Abatement of Adult Oriented Business Nuisances in Oklahoma City, Oklahoma, 1984 – 1989."

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