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July 22, 2010

Collin County Commissioners Court
ATTN: Bill Bilyeu
Jack Hatchell Administration Building
2300 Bloomdale Road, Suite 4192
McKinney, TX 75071

Re: Collin County Regulations on Sexually Oriented Businesses - Update

Dear Bill:

The City of Anna updated their ordinance regulating Sexually Oriented Businesses ("SOB") recently. The primary changes were to include the latest learned treatises on the subject of the effect of a sexually oriented business (SOB) in the area, including crime statistics, health statistics, and other secondary effects of the presence of a SOB. The Anna ordinance is based on an ordinance I worked on while on the City of Richardson's city council, which in turn is based on the much litigated and tested ordinances of the City of Dallas.

To be lawfully effective, the Commissioners Court would need to find that the recitations at the beginning of the regulations are true, and that these regulations are appropriate for the county. The regulations, as written, can be considered aggressive in establishing limitations for SOBs. While the United States Supreme Court has clearly established that complete outlawing of all such businesses in the unincorporated portions of the county would be unlawful, it is my opinion that the limitations of the regulations proposed here are lawful.

The Texas Local Government Code provides that these county regulations are only effective in the unincorporated portions of the county. Areas within municipal city limits are subject to ordinances enacted by individual cities.

In summary, the regulations require the businesses to comply with the following:

- a. An SOB must be located at least 1,320 feet from any religious institution, public or private educational facility, public park or recreational area, residential uses, children or family entertainment businesses, premises or use licensed pursuant to the Texas Alcoholic Beverage Code, or any business or establishment which is open or operates 24 hours a day.
- b. An SOB facility must be constructed to standards which allow, and require, full visual scan of all patron areas, except restrooms.

c. An initial license fee for an SOB operation of \$3,000.00 is required, in order to defray the costs in the county review of such applications, an individual entertainer license fee of \$500.00, and annual renewal of each license in the amount of \$500 and \$50, respectively.

d. Licenses for owners and entertainers are restricted to those who have not had criminal convictions in the recent past.

e. Liquor, to the extent possible, is prohibited within the facility. Liquor regulations are preempted by state laws. Consequently, the amount of effective regulation through liquor in these businesses is generally limited to what the state law will allow.

f. Lap dances are eliminated. The entertainer and patron are to be at least six feet apart.

g. And a host of other provisions.

I hope you will find this update of the sexually oriented business regulations for Collin County suitable for your needs. Please let me know if you would like to have an executive session on the legal issues involved in these regulations, or an open session.

Best regards,

A handwritten signature in black ink, appearing to read 'James E. Shepherd', with a large, stylized initial 'J'.

James E. Shepherd

Enclosure