

COPY

Honorable Alan A. McDonald

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OFFICE OF THE CITY ATTORNEY

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
AT SPOKANE

WORLD WIDE VIDEO OF
WASHINGTON, INC.,

Plaintiff,

v.

CITY OF SPOKANE,

Defendant.

No. CS-02-0074-AAM

DECLARATION OF TIM
SZAMBELAN IN SUPPORT
OF CITY OF SPOKANE'S
MOTION FOR SUMMARY
JUDGMENT

I, TIM SZAMBELAN, hereby declare under penalty of perjury under the laws of the state of Washington that the following is true and correct.

1. I am of legal age, am competent to testify, and I make this declaration on my own personal knowledge.

2. I have been an assistant city attorney for the City of Spokane (the "City") since 1991.

3. I have knowledge of the contents of the Legislative Record from City Ordinances No. 32778 and 33001 (the "Ordinances"). Attached hereto as exhibits are excerpts of the Legislative Record of the Ordinances.

I declare under penalty of perjury under the laws of the State of

DECLARATION OF TIM
SZAMBELAN- 1

KA24148\00020\TLN\TLN_P20QA

PRESTON GATES & ELLIS LLP
701 FIFTH AVENUE
SUITE 5000
SEATTLE, WASHINGTON 98104-7078
TELEPHONE: (206) 623-7580
FACSIMILE: (206) 623-7022

1 Washington that the foregoing is true and correct:

2 EXECUTED this 24th day of July, 2002 at Spokane, Washington.

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5 TIM SZAMBELAN

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DECLARATION OF TIM
SZAMBELAN- 2

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CODE ENFORCEMENT COMPLAINT FORM

CODE ENFORCEMENT
MUNICIPAL BUILDING/BOX 165
808 WEST SPOKANE FALLS BLVD
SPOKANE WA 99201-3333
(509) 625-6083

PLEASE COMPLETE ALL APPLICABLE INFORMATION AND RETURN TO THE ABOVE ADDRESS. PROVIDE AS MANY RELEVANT DETAILS AS POSSIBLE INCLUDING SPECIFIC ADDRESSES, LICENSE PLATE NUMBERS, ETC.

YOU MUST SIGN YOUR COMPLAINT BEFORE THE CODE ENFORCEMENT OFFICE CAN INVESTIGATE THE MATTER, UNLESS A LIFE THREATENING ISSUE EXISTS OR IF IT IS OTHERWISE DEEMED APPROPRIATE TO ACT.

ONE PROPERTY PER COMPLAINT FORM, PLEASE.

VIOLATION INFORMATION:

ADDRESS OF PROPERTY BEING COMPLAINED ABOUT: 4811 N. Market ^{entered}

Spokane WA 99207

PROPERTY OWNER (IF KNOWN) _____

NAME OF RESIDENT: Hollywood Adult Store PHONE NUMBER: _____

SUMMARY OF COMPLAINT: Store in violation - within radius of 750 ft of residential area

Graphic material found on our property

(If necessary use back of complaint form.)

HOW LONG HAS VIOLATION EXISTED? 3 or 4 weeks

COMPLAINANT INFORMATION: (REQUIRED)

YOUR NAME: Hollywood Dental Clinic Dr Joseph Asterino

YOUR ADDRESS: 4817 N Market Spokane WA 99207

SPO 000004

HOME PHONE NUMBER: 327-7610 WORK PHONE NUMBER: 459-7300

CONFIDENTIALITY PREFERENCE - DISCLOSURE OF INFORMATION REVEALING YOUR IDENTITY WILL DEPEND ON APPLICATION OF THE PUBLIC DISCLOSURE LAW, CHAPTER 42.17 RCW, OTHER APPLICABLE STATUTES AND WHETHER THE COMPLAINT IS CRIMINALLY PROSECUTED. WITH THAT UNDERSTANDING, PLEASE PUT YOUR INITIALS IN THE SPACE THAT INDICATES WHETHER OR NOT YOU DESIRE THAT INFORMATION REVEALING YOUR ENTITY BE DISCLOSED. FAILURE TO SELECT DISCLOSURE OR NO DISCLOSURE WILL RESULT IN THAT INFORMATION BEING SUBJECT TO DISCLOSURE.

ea DO NOT DISCLOSE _____ YOU MAY DISCLOSE

INITIAL

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DEC 01 1998

SIGNATURE: Joseph Asterino DATE: 11-30-98



CODE ENFORCEMENT COMPLAINT FORM

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A SIGNED COMPLAINT FORM IS NECESSARY BEFORE THE CODE ENFORCEMENT OFFICE CAN INVESTIGATE, UNLESS A LIFE THREATENING ISSUE EXISTS OR IF IT IS OTHERWISE DEEMED APPROPRIATE TO ACT.

ENFORCEMENT NUMBER

VIOLATION INFORMATION:
ONE ADDRESS PER COMPLAINT FORM:

ADDRESS OF PROPERTY BEING COMPLAINED ABOUT: _____

3813 N Arushin

PROPERTY OWNER (if known): Marco Barchanti

NAME OF RESIDENT: _____ PHONE NUMBER: _____

REASON FOR COMPLAINT: Adult Bookstore

HOW LONG HAS VIOLATION EXISTED? Just beginning (If necessary use the back of complaint form.)

COMPLAINANT INFORMATION: (REQUIRED)

PRINT YOUR NAME: Velma Amundson

YOUR ADDRESS: 3804 N Atlantic
Spokane Wa ZIP CODE: 99205

HOME PHONE NUMBER: 537 8554 WORK PHONE NUMBER: _____

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A DO NOT DISCLOSE _____ YOU MAY DISCLOSE
INITIAL INITIAL

SIGNATURE: Velma M Amundson DATE: 7/25/00

JUL 26 2000

SPO 000093

CODE ENFORCEMENT COMPLAINT FORM

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ENFORCEMENT NUMBER

VIOLATION INFORMATION:
ONE ADDRESS PER COMPLAINT FORM:

ADDRESS OF PROPERTY BEING COMPLAINED ABOUT: 3813 N. ^{DIVISION} ~~ATLANTIC~~ ST.
SPOKANE, WA.

PROPERTY OWNER (if known): MARCO BARBANTI

NAME OF RESIDENT: _____ PHONE NUMBER: _____

RY OF COMPLAINT: According to information I have the above named person is planning to open an adult bookstore or an entertainment establishment at the above address.

According to zoning code 11.19.143-B2-1 Zone the (over)
HOW LONG HAS VIOLATION EXISTED? _____
(If necessary use the back of complaint form.)

COMPLAINANT INFORMATION: (REQUIRED)

PRINT YOUR NAME: FLOYD D. CONNOR

YOUR ADDRESS: 3818 N. ATLANTIC ST.
SPOKANE, WA. ZIP CODE: 99205-3067

HOME PHONE NUMBER: 509-327-8806 WORK PHONE NUMBER: NONE

CONFIDENTIALITY PREFERENCE: DISCLOSURE OF INFORMATION REVEALING YOUR IDENTITY WILL DEPEND ON APPLICATION OF THE PUBLIC DISCLOSURE LAW, CHAPTER 42.17 RCW, OTHER APPLICABLE STATUTES AND WHETHER THE COMPLAINT IS CRIMINALLY PROSECUTED. WITH THAT UNDERSTANDING, PLEASE INITIALS IN THE SPACE THAT INDICATES WHETHER OR NOT YOU DESIRE INFORMATION REVEALING YOUR IDENTITY BE DISCLOSED. FAILURE TO SELECT DISCLOSURE OR NON-DISCLOSURE WILL RESULT IN THAT INFORMATION BEING SUBJECT TO DISCLOSURE.

DO NOT DISCLOSE YOU MAY DISCLOSE

SIGNATURE: Floyd D. Connor DATE: July 27, 2000

Pg 2
(Floyd Connor)

above named person
is in violation of the code as he is less than
750 feet from a public playground known as "Clark
Park" which is just across Garland Avenue and
this bookstore is only about 20 to 30 feet from
one family residence as I live across the alley
from the proposed site. Also I don't want
that bookstore close to other children that
lives within the 750 foot area.

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PROVIDE AS MANY RELEVANT DETAILS AS POSSIBLE INCLUDING SPECIFIC ADDRESS, LICENSE
PLATE NUMBERS, GARBAGE (HOUSEHOLD, YARD WASTE, WOOD) ETC.

A SIGNED COMPLAINT FORM IS NECESSARY BEFORE THE CODE ENFORCEMENT OFFICE CAN
INVESTIGATE, UNLESS A LIFE THREATENING ISSUE
EXISTS OR IF IT IS OTHERWISE DEEMED
APPROPRIATE TO ACT.

ENFORCEMENT
NUMBER

VIOLATION INFORMATION: ONE ADDRESS PER COMPLAINT FORM:

ADDRESS OF PROPERTY BEING COMPLAINED ABOUT: 3813 N. Division
Spokane, WA. 99205

PROPERTY OWNER (if known): MARCO BARBANTI

NAME OF RESIDENT: _____ PHONE NUMBER: _____

REASON FOR COMPLAINT: PLEASE DO NOT APPROVE BUSINESS OPENING IN
ABOVE ADDRESS. IT IS OBVIOUS TO BE IN VIOLATION OF 11.19.143- B2.1 ZONE
I LIVE IN THE SAME BLOCK SEPERATED BY ALLEY. MY GRANDCHILDREN ARE FREQUENT
VISITORS & HAVE MANY CHILDREN ON THIS BLOCK LIVING HERE! PLEASE SAY NO!
(If necessary use the back of complaint form.)

HOW LONG HAS VIOLATION EXISTED? _____

COMPLAINANT INFORMATION: (REQUIRED)

PRINT YOUR NAME: KAREN L. REL

YOUR ADDRESS: 3804 N. ATLANTIC ST.
SPOKANE, WA. ZIP CODE: 99205-3067

HOME PHONE NUMBER: 325-6417 WORK PHONE NUMBER: 325-6417

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DEPEND ON APPLICATION OF THE PUBLIC DISCLOSURE LAW, CHAPTER 42.17 RCW, OTHER APPLICABLE
STATUTES AND WHETHER THE COMPLAINT IS CRIMINALLY PROSECUTED. WITH THAT UNDERSTANDING,
PLEASE INITIALS IN THE SPACE THAT INDICATES WHETHER OR NOT YOU DESIRE INFORMATION REVEALING
YOUR IDENTITY BE DISCLOSED. FAILURE TO SELECT DISCLOSURE OR NON-DISCLOSURE WILL RESULT IN
YOUR INFORMATION BEING SUBJECT TO DISCLOSURE.

DO NOT DISCLOSE KLR YOU MAY DISCLOSE
INITIALS INITIAL

SIGNATURE: Karen L. Rel DATE: 7/24/2000

COMPLAIN.SIG(12-10-99)

Attachment "A"

**PROPOSED AMENDMENT TO THE
SPOKANE COUNTY ZONING CODE
"Adult Retail Use Establishments"**

Added wording is in underlined
Deleted wording is in strike-through.

Amend Chapter 14.300(Definitions) as follows:

~~Adult Bookstore: An establishment having as a substantial or significant portion of its stock in trade, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined in this section.~~

Adult Entertainment Establishment: An establishment defined pursuant to Chapter 7.80 of the Spokane County Code. ~~An enclosed building, or any portion thereof, used for presenting performances, activities, or material or relating to "specified sexual activities" or "specified anatomical areas," as defined in this section, for observation by patrons therein; Provided, however, that a motion picture theater shall be considered an adult entertainment establishment if the preponderance of the films presented is distinguished or characterized by an emphasis on the depicting or the describing of "specified sexual activities" or "specified anatomical areas"; provided further, however, that a hotel or motel shall not be considered an adult entertainment establishment merely because it provides adult closed circuit television programming in its rooms for its registered guests~~

Adult Retail Use Establishment:

A retail establishment which, for money or any other form of consideration, devotes a significant or substantial portion of stock in trade, to the sale, exchange, rental, loan, trade, transfer, or viewing of adult oriented merchandise.

"Adult oriented merchandise" means any goods, products, commodities, or other ware, including but not limited to, videos, CD Roms, DVDs, magazines, books, pamphlets, posters, cards, periodicals or non-clothing novelties which depict, describe or simulate specified anatomical area or specified sexual activities.

"Specified anatomical areas" means

- 1) less than completely and opaquely covered human genitals, pubic region, buttock, or female breast below a point immediately above the top of the areola; or
- 2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

"Specified Sexual Activities means any of the following:

- 1) Human genitals in a state of sexual stimulation or arousal;
- 2) Acts of human masturbation, sexual intercourse, sodomy, oral copulation, or bestiality; or

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I Studies:

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| A | Adult Entertainment Businesses in Indianapolis, 1984 |
| B | A Report on Zoning and Other Methods of Regulating Adult Entertainment in Amarillo (Texas), September 12, 1977 |
| C | Adult Entertainment Study, Department of City Planning, New York City, November 1994 |
| D | Report On the Secondary Effects of the Concentration of Adult Use Establishments in the Times Square Area, April 1994 |
| E | Final Report to the City of Garden Grove: The Relationship Between Crime and Adult Business Operations on Garden Grove Boulevard, October 23, 1991 |
| F | Report of the (Minnesota) Attorney General's Working Group on the Regulation of Sexually Oriented Businesses, June 6, 1989 |
| G | Report on Adult Oriented businesses in Austin (Texas), May 19, 1986 |
| H | Study & Recommendations for Adult Entertainment Businesses in the Town of Islip (NY), September 23, 1980 |
| I | Study of the Effects of the Concentration of Adult Entertainment Establishments in the City of Los Angeles, June 1977 |
| J | Forty Acre Study on Adult Entertainment, St. Paul, Minnesota, 1987 |