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MUNICIPAL ORDINANCE - ALASKA

Club SinRock, LLC v. Municipality of Anchorage, Office of the Municipal Clerk

Supreme Court of Alaska - August 2, 2019 - P.3d - 2019 WL 3519691

Operator of adult cabaret featuring fully nude dancing sought review of a municipal clerk's decision renewing its adult-oriented establishment licenses conditioned on its compliance with municipal code provision prohibiting adult-oriented establishments from operating during early morning hours.

The Superior Court affirmed. Operator appealed.

The Supreme Court held that:

- Municipal closing-hours restriction applied to adult cabarets, and
- The restriction violated state constitutional free speech clause as applied to adult cabarets.

Municipal ordinance prohibiting adult-oriented establishments from operating during early morning hours applied to operator of adult cabaret featuring fully nude dancing; ordinance listed adult-oriented establishments, including adult cabarets, which were then plainly defined to be cabarets featuring topless dancers, strippers, male or female impersonators, or similar entertainers, and no legislative history showed a contrary intent.

Municipal ordinance prohibiting adult-oriented establishments from operating during early morning hours was not narrowly tailored to promote compelling governmental interests of regulating negative effects of adult cabarets on community, including potential increased crime rates, declining property values, disinvestment, decline in economic and pedestrian activity, and harmful effects of cabarets on young girls in community, and therefore the ordinance violated free speech clause of State Constitution as applied to operator of adult cabaret featuring fully nude dancing; there was no evidence, direct or indirect, connecting forced early morning closures with reducing secondary effects.