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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

| | | |
|--------------------------------|---|------------------------------|
| CITY OF SEATTLE, |) | No. |
| |) | |
| |) | |
| Plaintiff, |) | |
| vs. |) | COMPLAINT FOR INJUNCTIVE AND |
| |) | DECLARATORY RELIEF |
| ROBERT D. DAVIS and ASF, Inc., |) | |
| |) | |
| |) | |
| Defendants. |) | |
| |) | |

1. INTRODUCTION

The City of Seattle (“City”) seeks a declaratory judgment that the defendants are operating an “adult cabaret”, i.e., a strip club,¹ in violation of City ordinances and an injunction prohibiting the continuing operation of the strip club.

2. PARTIES

2.1 The City of Seattle is a Washington municipal corporation.

2.2 Defendant Robert D. Davis (“Davis”) is: the lessee of property located at 5220 Roosevelt Way NE (in Seattle) where the strip club, “Jiggles”, is located; and the President of ASF, Inc.

¹ Strip clubs are called “adult cabarets” in the City’s zoning ordinance.

1 4.6 The second use, the YMCA located at 5003 12th Avenue NE, is approximately 569
2 feet from Jiggles. The YMCA is established as a community center under the zoning ordinance,
3 and includes child care as a permitted use.

4 4.7 The third use, the University Heights Center for Community located at 5031
5 University Way NE, is established as a community center that also includes a child care facility as
6 a permitted use, and is located approximately 716 feet from Jiggles.

7 4.8 The fourth use, a City of Seattle public park located at 9th NE and NE 50th, is
8 approximately 788 feet from Jiggles.

9 4.9 A map showing the location of the uses described above and distances from the strip
10 club is attached to this complaint.

11 *Failure to obtain a Master Use Permit Violation*

12 4.10 SMC 23.40.002 of the Seattle zoning code requires that a Master Use Permit
13 (“MUP”) be obtained from the City before a new use of property is established.

14 4.11 The previous established use of the property under the zoning ordinance was for a
15 restaurant (first floor) and office (second floor).

16 4.12 Because the defendants changed the use of the property from restaurant to an adult
17 cabaret without first obtaining a MUP to establish the use as an adult cabaret, the defendants
18 violated SMC 23.40.002.

19 **Facts Relating to Seattle Building Code Violations**

20 4.13 Sections 109 and 3406 of the Seattle Building Code require that a new Certificate of
21 Occupancy be obtained, following a final inspection, before a building may be used for a different
22 occupancy or if there is a change in the character of the occupancy.

1 4.14 The current Certificate of Occupancy for 5220 Roosevelt Way NE, issued in 1969, is
2 for a “Tavern” and “Apartments.”

3 4.15 Because the defendants have changed the 1969 occupancy to a different occupancy,
4 restaurant and offices, without first obtaining inspections and a new Certificate of Occupancy, the
5 defendants have violated sections 109 and 3406 of the Seattle Building Code.

6 4.16 Section 1006 of the Seattle Building Code requires that building egress be
7 illuminated. The City’s inspection of the property has determined that a violation of this code
8 requirement exists.

9 4.17 Section 101 of the Seattle Building Code also requires that exit signs be provided.
10 The City’s inspection of the property has determined that a violation of this code requirement also
11 exists.

12 **5. CAUSES OF ACTION and REQUESTS FOR RELIEF**

13 **First Cause of Action: Permanently Enjoin the Defendants from Operating an Adult Cabaret**
14 **at 5220 Roosevelt Way**

15 5.1 The City incorporates by reference the facts described in sections 1 through 4 above.

16 5.2 The City seeks a permanent injunction enjoining the defendants from operating an
17 adult cabaret at 5220 Roosevelt Way NE in Seattle until the defendants obtain a Master Use Permit
18 allowing an adult cabaret and until the defendants have complied with the Seattle Building Code.

19 **Second Cause of Action: Entry of a Declaratory Judgment that the Defendants are Violating**
20 **the Zoning Code**

21 5.3 The City incorporates by reference the facts described in sections 1 through 4 above.

22 5.4 The City seeks a judgment declaring that the defendants are operating an adult
23 cabaret in violation of the zoning buffer requirement of SMC 23.47A.004 (H) because Jiggles is

1 located within 800 feet of a school, child care center, community center, and public park, and
2 enjoining the use thereof.

3 5.5 The City seeks a judgment declaring that the defendants are operating an adult
4 cabaret in violation of SMC 23.40.002 because they failed to obtain a Master Use Permit before
5 establishing the adult cabaret use, and enjoining the use thereof.

6 **Third Cause of Action: Declaratory Judgment that the Defendants are Violating the
7 Building Code**

8 5.6 The City incorporates by reference the facts described in sections 1 through 4 above.

9 5.7 The City seeks a judgment declaring that the defendants are violating sections 109
10 and 3406 of the Seattle Building Code by changing the occupancy of the property without obtaining
11 a final inspection and without obtaining a new Certificate of Occupancy, and enjoining the use of
12 the property until the defendants obtain a final inspection and a new Certificate of Occupancy.

13 5.8 The City seeks a judgment declaring that the defendants are violating sections 1006
14 and 1011 of the Seattle Building Code by failing to provide egress illumination and exit signs as
15 required by those sections, and enjoining the use of the property until the defendants have complied
16 with the requirements of those sections.

17 DATED this 27th day of January, 2011.

18 PETER S. HOLMES
19 Seattle City Attorney

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