

CASE REPORT

**MUNICIPAL REGULATIONS —
ADULT ENTERTAINMENT —
APPLICATION TO PRIVATE NONPROFIT CLUBS**

November 13, 2001

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MUNICIPAL REGULATIONS — ADULT ENTERTAINMENT — APPLICATION TO PRIVATE NONPROFIT CLUBS. Municipal adult entertainment regulations apply fully to private, nonprofit clubs offering adult entertainment. **City of Shoreline v. Club For Free Speech Rights**, No. 47569-0-I, (Slip Op., November 13, (2001)).

I. Facts. The City of Shoreline obtained an injunction against an adult cabaret prohibiting the cabaret from violating the City’s adult entertainment ordinance. The cabaret then ostensibly ceased operations and reopened as the “Club for Free Speech Rights” (CFFSR), a nonprofit private membership club offering on-site adult entertainment to its members. After undercover law enforcement officers subsequently observed violations of the City’s adult entertainment ordinance at CFFSR, the City sought an injunction against the club. CFFSR counter-claimed against the City, arguing that it was immune from adult entertainment regulations due to its status as a private membership club. The trial court granted the City’s motion for summary judgment, and CFFSR appealed.

II. Applicable Law and Analysis. On appeal, Division One of the Washington Court of Appeals Washington affirmed the trial court’s ruling. The Court of Appeals rejected CFFSR’s contention that the City of Shoreline’s adult entertainment regulations did not apply to private, nonprofit clubs. Shoreline’s ordinance broadly defined “adult cabaret” as “any commercial premises. . . to which any member of the public is invited and where an entertainer provides live adult entertainment.” The ordinance also explicitly defined “cabaret” to include “clubs,” and defined “member of the public” as, *inter alia*, “club member.” Based upon the plain language of the Shoreline code, the Court of Appeals found that private, nonprofit membership clubs were subject to the City’s adult entertainment regulations.

The Court of Appeals also dismissed CFFSR’s argument that the City’s adult entertainment regulations violated the club’s right to freedom of association. Reasoning that freedom of association is intended to protect “intimate human relationships,” the court held that large, non-selective commercial enterprises such as CFFSR were not entitled to this type of constitutional protection.

III. Conclusion. The *CFFSR* decision represents an important affirmation by the Washington judiciary that adult entertainment establishments may not avoid municipal regulations merely by repackaging themselves as private “clubs.” Critical to the *CFFSR* Court’s decision, however, was the fact that the City of Shoreline’s adult entertainment ordinance was drafted broadly enough to include such private clubs within the City’s regulatory purview. To ensure a similar result, cities should examine their existing adult entertainment ordinances to verify that the relevant definitional provisions are sufficiently broad. Please contact our office if you desire assistance with this review.