

Ban on nudity must be applied equally

Judge agrees citing nude dancers was unconstitutional

By ANDREW MELNYKOVYCH
Staff Writer

Here's the bottom line on nudity in Louisville: In the eyes of the law, if not in the eyes of the beholder, all breasts are created equal.

That's the upshot of the latest turn in the ongoing battle between city officials and owners of liquor-serving establishments that feature nude dancing.

Jefferson Circuit Judge Thomas Knopf ruled Tuesday that enforcement of a city ordinance barring partial or full nudity in any establishment that serves liquor must be evenhanded — applied equally to places like

the Godfather II and the Kentucky Center for the Arts.

Knopf upheld the dismissal of about 150 citations against nude dancers and bar owners who had been charged with violating the ordinance's prohibition against baring breasts, buttocks or genitals. Jefferson District Judge Paul Gold threw the citations out in April 1995, saying the city's selective enforcement was unconstitutional. Only bars have been cited for violating the ordinance.

Louisville law director Bill Stone said Knopf's decision leaves the city with three choices: appeal it to the Kentucky Court of Appeals, revamp the ordinance or begin enforcing it in all cases. A decision will be made in the next few weeks, he said.

"As we read the opinion, we can continue to enforce the ordinance against any licensed establishment," Stone said. "We just have to do it equally."

But Mike Hatzell, lawyer for the dancers and bar owners, said the ordinance is unenforceable, which "makes it no good at all." There is no way the city will go after performers at the Kentucky Center for the Arts or Actors Theatre, which occasionally feature performances in which banned body parts are bared, Hatzell predicted.

Nor will those venues stop serving alcohol to patrons, he said.

"That strikes right at the absurdity of this entire matter," Hatzell said. The ordinance implies "that it's OK to look at nudity as long as you don't drink a beer."

And Lee Krugler, owner of Godfathers II, said it makes no sense to allow nude dancing only in establishments that don't serve alcohol. An 18-year-old high school student can legally enter a place that allows total nudity, but can't go into a place that serves beer, he said.

Rather than trying to close down places such as his, Krugler suggested the city should "stop wasting taxpayers' money" and simply not enforce the ordinance.

If bars such as Godfathers II can operate without official harassment, he said, nude-dancing establishments that don't serve alcohol will be forced to get liquor licenses in order to compete. That, in turn, will make nude dancing available only to patrons 21 and older, he said.

The other option — covering up the dancers — won't work, Krugler said. "It's just common sense... people aren't going to come into a club to watch a girl walk around in a bikini."

But a G-string might be another matter, Krugler said. The current ordinance is based on good intentions but is poorly executed, he said.

Krugler said "the ultimate solution" is to pass an ordinance allowing only bare breasts.

5-24