

Adult Association Of Canada Vs City Of Ottawa

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The Adult Association of Canada filed a case against the City of Ottawa in regard to the bylaws that were enacted. The Bylaw restricted touching and dancing between club dancers and customers. Operators, owners, and performers of clubs filed a case against the City, however, the case was dismissed on the grounds that they had to appreciate the proposed by law and meet its requirements. The appellants decided to appeal the ruling, which was also dismissed with an argument that there were no grounds for interference with the finding of the application judge. Some of the reasons why Judge R.A Blair J. A dismissed application included the city having to ensure its bylaws were in harmonization with those of its former municipalities; the City staff made consultations with all stakeholders before enacting the Bylaw, as well as the prohibition of touching between dancers and customers since they aroused sexual appetites (*Adult Entertainment Association of Canada v. Ottawa (City)*).

Issues

The issues raised by the applicants included whether the City had the authority to impose the AEP bylaw. Secondly, is there any sound basis on which the City could conclude that consumer protection was of any great concern? Third, if the City of Ottawa exercised its authority in a way that is against the Municipal Act 2001. Fourth is whether this Bylaw was vague. The fifth was if the judge was right in awarding costs to the City. The sixth issue is whether the Bylaw attempted to cover issues that were to be dealt with by the Liquor License Act 1990 and the Health Protection and Promotion Act 1990. Another issue was if the application judge erred when he failed to find that the Bylaw violates ss.2 (b), 7 & 8 of the Canadian Charter of Rights and Freedom. Also, the appellants raised the issue of whether ss.151 (3) and ss.99 of the Municipal Act 2001 were void for vagueness. Finally is whether the AEP Bylaw was awarded to its enabling legislation due to various reasons, including it permitting illegal discrimination against license holders, between dancers and operators, and allowing discriminatory and arbitrary application.

Analysis

Despite the fact that the applicants submitted that the City lacked the power to enact the AEP Bylaw, it is evident that the City had the authority to enact a bylaw that regulated, licensed and governed the operation of the adult entertainment parlours. The authority was derived from ss. 150, which deals with licensing powers, and ss.151, which deals with AEP. According to ss. 150, a local

municipality can exercise its licensing authority over matters concerning consumer protection, health, and safety, as well as nuisance control.

Also, it is evident the city engaged in a proper exercise of its regulating power since the appellants were given notice of the Bylaw through consultative meetings that were held with the involved stakeholders before enacting the law. This was done by placing the notice in the *Ottawa Sun*, *Ottawa Citizen*, and *Le Droit* in regard to the proposed Bylaw. The vagueness of the advertising device, as argued by the appellants, was dismissed since language cannot be used as an exact tool of attack because a law is not expected to predict the legal outcomes of all conduct possible courses. The Bylaw was termed not to be vague since, with judicial interpretation, it could give reasonable standards of conduct.

In addition, The AEP bylaw did not violate the sections contended by the appellants, including ss. 2(b), 7 and 8 of the charter. This is because the local municipalities have authority under section 99 of the Municipal Act to prohibit and regulate the content, message, and nature of signs as well as advertising devices used in the adult entertainment parlour. Besides, limiting the content of AEP signs was fully supported by the public since the signs are put in public where even children can see them, ruining their moral standards. Also, with regard to the appellants' submission regarding awarding costs to the respondents, it is right since the respondents are fully entitled to their costs of appeal.

Finally, regarding whether the Bylaw was colourable municipal law, the local municipalities have authority over matters concerning consumer protection, nuisance control, and health protection. Similarly, since the Bylaw did not face any actual conflict with the provincial legislation, the AEP bylaw is effective.

Therefore, I agree with the ruling of the judge since the appellants failed to provide a reasonable evidentiary record to support their claim. Similarly, the applicants had enough time to reject the Bylaw before its enactment since the City held meetings with the industry operators and provided notice through various advertising devices proving the appellants had been informed of the Bylaw. Also, the City used the powers vested in them to ensure consumer protection, in this case, the customers who visit AEP from erotic or sexual appetite brought about by the touching by club performers and dancers. Besides, the City was not trying to dictate the AEP owners and operators the message or content they should air, rather it was promoting the safety and health of the public as well as consumer protection. Finally, the ruling was right since it served the interest of the public, the people of the City of Ottawa.

Works Cited

Adult Entertainment Association of Canada v. Ottawa (City), 2005 O.N.C.A. 389, 283 D.L.R. (4th) 704 (2005).