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Adam Cohen and Jendi Reiter
351 Pleasant Street, PMB 101
Northampton, MA 01060

Dear Mr. Cohen and Ms. Reiter:

Thank you for your letter of June 20, 2007 and the concerns that you expressed regarding the transmission of HIV. We share those concerns. The lawyers at my firm have long considered this to be an extremely important issue, and as lawyers and as members of the community, have worked and supported efforts to decrease the transmission of HIV. As you may know, based in part on this commitment, our firm was recently awarded the first annual Reproductive Freedom Award by Tapestry Health, Pro-Choice Massachusetts and the Abortion Rights Fund of Western Massachusetts.

In your recent letter, you argue that no community should ever issue a license for a booth which allows the viewing of adult material since such booths invariably lead to unprotected male to male sex, thus providing a "significant route for HIV transmission." We disagree with this assertion. If adult content viewing booths are properly regulated, they allow no opportunity for physical contact and pose no risk of transmitting HIV.

With regard to the Springfield viewing booths, you are aware from the hearing conducted on June 18, 2007 that our client Capital Video instituted a series of procedures in December 2006 and January 2007 to insure that there would be no physical contact of any sort between individuals. These steps, which were undertaken after this law firm was hired, included:

- (1) Firing the manager of the Springfield store, as well as the District Manager who oversaw the Springfield store.
- (2) Installing a surveillance system with a monitor directly in front of the cash register, divided into sections to allow the simultaneous viewing of four areas (two cameras showing the viewing booths, one displaying the store area, and the last showing the sidewalk in front of the store). The surveillance system allows the district manager as well as the home office



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to have live access to the four-part viewing screen at all times, and both monitor it on a regular basis.

- (3) Large metal sheets were installed on the walls of all adjoining viewing booths to insure there can be no contact between customers.
- (4) An 18-inch opening was cut into the bottom of each video booth door, which allows the employees who monitor the booth area, to make sure that only one person is in a booth at a time if they have any question about that fact.
- (5) Booth area lighting was increased to the same lighting level as the retail portion of the store.
- (6) Two lights were installed on the front exterior of the building, as well as the surveillance camera described above, to insure there is no loitering outside the store.
- (7) Three booths were permanently removed and blocked off by a wall.

As you are aware, these steps have proven successful. At the June 18, 2007 hearing, there was no evidence presented by the police and/or the Health Department, which have monitored the establishment on a regular basis since the changes were completed in January 2007, of any improper activity or conduct. This is not surprising since, given the constant video monitoring, such activity has become essentially impossible. In fact, the materials on your own website indicate that the last two entries on Squirt.org, a "cruising" website, which were written after the changes noted above were begun to be implemented, discouraged frequenting the store because Capital Video: (a) had increased its level of lighting, (b) will "throw you out" if they see you opening doors and (c) are "very serious" about preventing physical contact between customers.

We also respectfully disagree with the statement in your letter that viewing booths are not constitutionally protected. We are very familiar with the freedom of expression parameters of both the United States and Massachusetts Constitutions and recently were successful in having the Massachusetts Supreme Judicial Court in Mendoza v. City of Fall River declare a local "public indecency" ordinance which had banned all public nudity, whether in a barroom or in the musical "Hair," unconstitutional.

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At issue is constitutionally protected freedom of expression. Your suggestion that because adult material is available on the Internet, it loses its First Amendment protection in public stores simply has no merit. That argument ignores the fact that many Americans are not fortunate enough to be able to afford a computer while others may choose, given the pervasive nature of electronic surveillance by our government, to not view adult material on a home computer.

In closing, we would reiterate that we appreciate your concerns. However, government must not be allowed, when the activity is not causing harm, to impose its moral views upon individuals. This is especially true where, as here, the procedures instituted in the Springfield store have and will continue in the future to prevent any recurrence of improper activity. We, of course, will continue our personal and legal efforts in support of programs and policies that battle the scourge of HIV, such as needle exchange, condom availability, and educational programs, efforts regarding which, I am sure, you are supportive.

For these reasons, we respectfully decline your suggestion that we no longer represent Capital Video.

Because you posted your letter to me on your website, we would request that this letter be printed in full on your website as well. Thank you.

Very truly yours,



Thomas Lesser

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7/17/07