



Casino Reinvestment Development Authority Land Use Regulation & Enforcement Division

15 South Pennsylvania Avenue - Atlantic City NJ 08401 – 609-347-0550

TO: Jane Fontana, Esq., Scott Collins, Esq.
Mónica de los Ríos, Esq.

FROM: Robert L. Reid, AICP, PP, Land Use Regulation Enforcement Officer

SUBJECT: Taboo, 1544 Atlantic Avenue, Atlantic City NJ

DATE: 9/24/2021

As directed I visited the business establishment at 1544 Atlantic Avenue, Atlantic City NJ on September 21, 2021. The purpose of the visit was to review through site observation the type of operation and type of retail merchandise for sale to the public, and to determine if the retail operation at the site is consistent with the Settlement Agreement dated April 6, 1999 between the City of Atlantic City, Francine, Inc. and the “Kaminskys”, and determine if the retail operation is consistent with NJSA 2C:34-7.

The Settlement Agreement allows for a “General Retail Section” which refers to an “Exhibit A, section A” which is not attached to the said agreement. The said agreement states an area of 8’x 21’ (168 SF) fronting Atlantic Avenue designated as “General Retail Section”. This “General Retail Section” shall have above the door a sign which state “Adult Only, Do Not Enter” and You Must be 21 Years of Age or Older to Enter”. The said agreement acknowledges that NJSA 2C:34-7 restricts the location of sexually oriented businesses (SOB) within the municipality. The said agreement states that the business is not considered an SOB because the SOB will not be the principal business purpose. The said agreement states that in the event the sale or rental of adult materials shall become the principal business purpose, the City shall have the right to revoke any license granted by the City.

NJSA 2C:34-7 Sexually oriented business; location, building requirements; penalty.

a. Except as provided in a municipal zoning ordinance adopted pursuant to N.J.S.2C:34-2, no person shall operate a sexually oriented business within 1,000 feet of any existing sexually oriented business, **or any church, synagogue, temple or other place of public worship, or any elementary or secondary school or any school bus stop, or any municipal or county playground or place of public resort and recreation, or any hospital or any child care center, or within 1,000 feet of any area zoned for residential use.** This subsection shall not apply to a sexually oriented business already lawfully operating on the effective date of this act where another sexually oriented business, an elementary or secondary school or school bus stop, or any municipal or county playground or place of public resort and recreation, or any hospital or any child care center, is subsequently established within 1,000 feet, or a residential district or residential lot is subsequently established within 1,000 feet.

b. Every sexually oriented business shall be surrounded by a perimeter buffer of at least 50 feet in width with plantings, fence, or other physical divider along the outside of the perimeter sufficient to impede the view of the interior of the premises in which the business is located. The municipality may, by ordinance, require the perimeter buffer to meet additional requirements or



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standards. This subsection shall not apply to a sexually oriented business already lawfully operating on the effective date of this act.

c. No sexually oriented business shall display more than two exterior signs, consisting of one identification sign and one sign giving notice that the premises are off limits to minors. The identification sign shall be no more than 40 square feet in size.

d. A person who violates this section is guilty of a crime of the fourth degree.

L.1995,c.230,s.3; amended 1999, c.41.

NJAC 2C:34-6. Definitions, 2. a. "Sexually oriented business" means:

(1) A commercial establishment which as one of its principal business purposes offers for sale, rental, or display any of the following:

Books, magazines, periodicals or other printed material, or photographs, films, motion pictures, video cassettes, slides or other visual representations which depict or describe a "specified sexual activity" or "specified anatomical area"; or still or motion picture machines, projectors or other image-producing devices which show images to one person per machine at any one time, and where the images so displayed are characterized by the depiction of a "specified sexual activity" or "specified anatomical area"; or instruments, devices, or paraphernalia which are designed for use in connection with a "specified sexual activity"; or

(2) A commercial establishment which regularly features live performances characterized by the exposure of a "specified anatomical area" or by a "specified sexual activity," or which regularly shows films, motion pictures, video cassettes, slides, or other photographic representations which depict or describe a "specified sexual activity" or "specified anatomical area."

The following is the result of my site observation on September 21, 2021:

The business establishment consists of approximately 1,824 SF with a 19'x 66' (1,254 SF) front retail area and 19'x 30' (570 SF) viewing booths area in rear. The front retail area includes adult material is defined by NJAC 2C:34-6, 2. a. (1) above. The rear viewing area includes activities as defined by NJAC 2C:34-6, 2. a. (2) above.

The subject property is located within 1,000' of land uses as described in NJSA 2C:34-7.

Existing exterior signage and display windows are inconsistent with limitations in NJSA 2C:34-7, c above.

The use of 1,824 SF for the sale of adult materials is inconsistent with the limitations of use of area of 168 SF in the said agreement.

The Settlement Agreement allowing SOB as an accessory use is inconsistent with NJSA 2C:34-7 and the agreement is invalid since parties cannot enter to an agreement to violate law.

Also it should be noted that the sales clerk offered to sell me prescription drugs over the counter without the required physician's authorization.