

4 bathhouses file suit over city ordinance

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Four of the city's five gay bathhouses filed a lawsuit yesterday to stop enforcement of a new city ordinance restricting any bathhouse sexual activity that spreads the AIDS virus.

The ordinance, similar to bathhouse regulations adopted in February by the county Board of Supervisors, takes effect today.

No hearing has been set on the businesses' request for an injunction against the ordinance, which the lawsuit contends is unconstitutional.

The suit was filed in Superior Court on behalf of Club San Diego, Vulcan Steam & Sauna, Club Mustang, and Dave's Club. A spokesman for the CBC Club, which was not part of the suit, could not be reached for comment yesterday.

Michael Crowley, attorney for Club San Diego and the Vulcan, said the city ordinance "is not rationally related to what it was intended to do -- stop the spread of AIDS."

Key San Diego public officials last year said closing the bathhouses would not stop the spread of AIDS, said Crowley. "But the same people are now saying it does contribute to that spread. We want to know what data changed their mind -- it's certainly nothing in the public domain, other than the political winds."

The city's new ordinance sets requirements for lighting, construction and room size, prohibits doors on private rooms, and sets out other requirements to discourage unsafe sexual activity.

Dr. J. William Cox, director of the county Health Department, which will enforce the city and county ordinances, defines unsafe sexual activity as anal, oral or vaginal intercourse, with or without the use of a condom.

Cox said yesterday county inspectors will attempt to inspect the bathhouses soon to see if they are in compliance. If inspectors are denied entrance by bathhouse proprietors, the county will go to court requesting an inspection warrant.

"We will have patience and persistence," Cox said.

The lawsuit contends that the bathhouses "are operated for the purpose of providing a retreat where gay men and bisexual men may associate with others for social, recreational, and political purposes in an atmosphere where the membership will not be exposed to the hatred, scorn and persecution by members of the public who despise and are offended by a gay orientation and lifestyle.

"There is no evidence that operations of gay bathhouses have caused the spread of the (human immunodeficiency) virus or contributed to the spread of AIDS," the lawsuit claims.

The lawsuit adds that the businesses have been used "as AIDS education centers, providing written material and seminars promoting safe sexual practices among gay men, including the consistent use of condoms."

Public health officials in Los Angeles, New York and New Jersey have said gay bathhouses do not significantly contribute to the spread of the disease, according to the lawsuit.

County health director Cox, however, believes that bathhouses do contribute to the spread of the AIDS virus, which has killed 460 county residents and has been diagnosed in another 357 people.

Of more than 311 San Diego AIDS patients surveyed last year, county officials said 79 percent acknowledged patronizing bathhouses.

Acting under the county's bathhouse regulations, Cox said inspectors last month tried to gain entrance to the five gay bathhouses and two heterosexually oriented hot tub spas to see if the facilities were observing the new requirements.

Cox said inspectors were denied entrance by all five bathhouse proprietors. "One said he wouldn't let us enter on advice from his attorney; another said he hadn't received the new guidelines or laws; and yet another said we could only inspect the pool and spa," Cox said.

Crowley said he told his clients not to admit Health Department inspectors because "there's a procedure (for the Health Department) to obtain an administrative warrant."

Because the businesses are located within city limits, Cox said, the city ordinance going into effect today has more legal clout than the county's. Inspectors will again attempt to check the facilities.

"A local government has the right to set forth conditions under which an establishment can legitimately operate," he said.

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Abstract (Document Summary)

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