

## Operators of 4 bathhouses granted court hearing on city restrictions

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Saying the city's bathhouse ordinance "is a waste of taxpayer money," operators of San Diego's four gay bathhouses yesterday won the right to a hearing in Superior Court on the constitutionality of the ordinance.

Designed to reduce the spread of AIDS, the city's ordinance prohibits sexual activity on the premises of bathhouses and imposes structural standards, occupancy limits and lighting requirements.

Attorney Michael Crowley, representing two of the bathhouses, said health inspections of the bathhouses in June constituted the waste.

Crowley represents Club San Diego and the Vulcan bathhouses. The Club Mustang and Dave's Club were represented by attorney Tom Homann.

As a result of the ruling by Superior Court Judge G. Dennis Adams, the city will not attempt to enforce the ordinance until constitutional questions are settled, city attorneys have said.

Deputy City Attorney Jim Bivens said he did not consider yesterday's decision a defeat, just "the first step in the very earliest stages" of this case.

"The court was not asked to rule on the merits of the case," said Gene Gordon, chief deputy city attorney. "The court simply ruled on whether there was enough stated in the pleadings to allow (the bathhouses) to go forward."

Crowley said that during the constitutional hearing he intends to stress that there is no proof that bathhouses cause AIDS. "All we want is for the city to show documentation that bathhouses cause the spread of AIDS," he said.

Crowley also said that by imposing strict building standards designed to close the bathhouses, the city's ordinance inhibits "the constitutional right to free association for social, recreational and political purposes."

"What the city has said all along is that they intend to close down gay bathhouses," he said.

Crowley said the issue of waste of taxpayers' money probably will never come up again in the case. In fact, he acknowledged, the fees required by the new ordinance probably would cover the cost of the inspections.

After bathhouse owners filed their constitutional challenge last spring, city attorneys in July sought to have the action dismissed. The city said the challenge was vague and unspecific, Bivens said. It was this legal action that was denied yesterday. City attorneys have 10 days to respond.

The court action came a day after the state Senate approved a bill by Assemblyman Bill Bradley, R-San Marcos, allowing bathhouses that permit or encourage sexual activity to be declared public nuisances and forcing their closure.

Bradley said yesterday that his bill would give a city the authority to close bathhouses "strictly on the grounds that they increase the hazard of AIDS," without dealing with building or land-use requirements.

The Bradley bill now returns to the Assembly for approval of Senate amendments. It could become law by Jan. 1.

More than a thousand San Diego residents have been diagnosed with AIDS since reporting began in 1981. San Diego County ranks ninth in the nation in number of cases diagnosed so far this year.

A county Health Department survey of 311 San Diego homosexual men diagnosed with acquired immune deficiency syndrome between 1985 and 1987 showed that 79 percent of them had patronized bathhouses.

Credit: Staff Writer

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**Abstract** (Document Summary)

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