



City of Grover Beach

**PRESS RELEASE
FOR IMMEDIATE RELEASE**

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Diamond v. City of Grover Beach

Tonight the City Council took action to request a rehearing of a decision regarding Diamond versus City of Grover Beach.

Four years ago, the City initiated an effort to revise the Municipal Code as it relates to the location of adult businesses within the City. The City Council, with the support of the community, maintained that the downtown business district was not suitable for the location of adult-oriented businesses. The City is in the process of creating a downtown that is family-oriented and a positive and energetic place to conduct business.

Over the years, Mr. Diamond has litigated the City's right and ability to implement an ordinance that would regulate the location and operation of adult businesses. He has attacked the ordinance on constitutional issues dealing with the 1st and 14th Amendments.

The City prevailed at trial and Mr. Diamond was ordered to cease operating an adult business at that location. He disregarded the order and was subsequently fined by the trial Court pursuant to the City's motion.

Both decisions were appealed by Mr. Diamond and recently the 9th Circuit Court of Appeals reversed the trial Court in a 2-1 decision that found that Mr. Diamond established his business as a legal nonconforming use after the moratorium had ended. Two Judges reached this decision even though Mr. Diamond was originally permitted to open under an interim agreement with the City, which by its own terms, was not to be used to his advantage in the litigation. A strong dissent by Judge Rymer characterized the majority's decision as a "windfall for Diamond".

The City Council's decision to proceed with the request for a rehearing is based on its belief that they have a responsibility to ensure that only permitted uses can legally establish in the downtown area and in every other zoning district in the City.

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