

NEW YORK COURT OF APPEALS

City of New York v. Stringfellow's of New York, Ltd.

96 N.Y.2d 51, 749 N.E.2d 192 (2001) · Decided March 29, 2001

SUMMARY

The New York Court of Appeals held that Stringfellow’s, a topless bar, qualified as an “adult eating or drinking establishment” under the New York City Zoning Resolution despite its purported policy allowing minors to enter. The court concluded that the policy was so restrictive and rarely used that the establishment was not customarily open to the general public, and affirmed the permanent injunction against its operation as an adult establishment.

CASE DETAILS

COURT	New York Court of Appeals
WRITING FOR THE COURT	Rosenblatt, J.; Chief Judge Kaye; Judge Smith; Judge Levine; Judge Ciparick; Judge Wesley; Judge Graffeo
JURISDICTION	New York
DECIDED	March 29, 2001
DISPOSITION	affirmed
PROCEDURAL POSTURE	Stringfellow's appealed as of right from an Appellate Division order affirming Supreme Court's permanent injunction enforcing New York City's Amended Zoning Resolution against the establishment.
STANDARD OF REVIEW	Interpretation of the New York City Zoning Resolution presents a question of law reviewed by the Court of Appeals.
PRECEDENTIAL VALUE	Published New York Court of Appeals opinion; binding statewide precedent.
PARTIES	Stringfellow's of New York, Ltd. v. City of New York

TOPICS

- statutory interpretation
- ordinances
- municipal law
- legislative intent
- constitutional law

PRACTICE AREAS

- municipal law
- zoning law
- land use regulation
- statutory interpretation
- constitutional law

QUESTIONS PRESENTED

1. Whether a topless bar's purported policy permitting admission of minors made it customarily open to the general public and excluded it from the Amended Zoning Resolution's definition of an adult eating or drinking establishment.
2. Whether the court could consider the actual operation and industry standards in determining the meaning of the term customarily in the zoning provision.

HOLDINGS

1. Stringfellow's remained an adult eating or drinking establishment because its restrictive minors policy did not make the establishment customarily open to the general public during its adult features.
2. The term customarily must be applied according to the establishment's actual and habitual practices, and the court may reject a strained interpretation that would create an end run around the zoning regulation.

KEY QUOTATIONS

“Under any definition, Stringfellow’s is not “customarily open to the general public.”” (56)

“When the lawmakers’ purpose is as clear as it is here, we will not bend their words into the shape of a loophole.” (56)

“The AZR was designed to keep children away from these establishments, not to have them invited in as customers.” (57)

FACTUAL BACKGROUND

Stringfellow's was a topless bar featuring topless dancing and therefore satisfied the portions of the zoning definition concerning live performances and employees exposing specified anatomical areas. It adopted an elaborate minors policy requiring parental involvement, attorney consultation, identification, sworn statements, and other safeguards, but admitted only one minor during the period discussed. The City sought to enforce the Amended Zoning Resolution, while Stringfellow's argued that the policy made it customarily open to the general public and therefore outside the definition of an adult eating or drinking establishment.

PROCEDURAL HISTORY

Stringfellow's sought a declaratory judgment that its minors-admission policy excluded it from the definition of an adult eating or drinking establishment under the Amended Zoning Resolution. After the City commenced an enforcement proceeding, Supreme Court consolidated the actions and initially dismissed the City's complaint. The Appellate Division reversed and remanded, holding that Stringfellow's remained an adult eating or drinking establishment. On remand, Supreme Court granted a permanent injunction, and the Appellate Division affirmed. The Court of Appeals affirmed the Appellate Division.

DISPOSITION

affirmed

CASES CITED

- DJL Rest. Corp. v. City of New York, 96 N.Y.2d 91
- Stringfellow's of N.Y. v. City of New York, 91 N.Y.2d 382
- City of Renton v. Playtime Theatres, 475 U.S. 41, 47-50
- Matter of Town of Islip v. Caviglia, 73 N.Y.2d 544, 552-555
- City of New York v. Dezer Props., 95 N.Y.2d 771, 773
- City of New York v. Les Hommes, 94 N.Y.2d 267, 274
- Teachers Ins. & Annuity Assn. v. City of New York, 82 N.Y.2d 35, 43
- Buzzetti v. City of New York, 140 F.3d 134

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