

January 26, 2015

Tom Myers
General Counsel
323-860-5259

Mark J. Saladino
Los Angeles County Counsel
648 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

RE: Enforcement of County of Los Angeles Safer Sex in the Adult Film Industry Act

Dear Mr. Saladino:

I write this letter to request that the County immediately develop and implement a permit fee for permits issued pursuant to the above law, also known as “Measure B.” Court cases have established the law’s validity, and the County has a ministerial, non-discretionary duty to develop and implement this fee.

As you may be aware, on December 15, 2014, the United States Court of Appeals for the Ninth Circuit issued an opinion affirming the federal District Court’s August 16, 2013 Order upholding the validity and constitutionality of certain parts of Measure B.

Among the parts of Measure B that were found to be valid are the requirement of condom use during the filming of certain acts, and the development and imposition of a revenue neutral permit fee. The District Court’s ruling enjoined the imposition of the previously set fee of \$2,000 - \$2,500 because there was no evidence presented by the County that it was “revenue neutral,” meaning that the amount of the fee did no more than cover the anticipated cost of enforcing the Measure, and was not designed to impose a “tax” on speech. In so holding, the Court stated “[S]ince there is no evidence that measure (sic) B’s [current] fees are revenue neutral, there is no reason to believe the Department’s measure B duties cannot be performed without fees – or performed at least until the fees’ defect is cured, either by enacting a new, constitutional ordinance **or providing this Court with evidence of revenue neutrality.**”

Because the County constitutionally may impose a revenue neutral fee, and because Measure B obliges upon the County a mandatory, ministerial obligation to develop and implement a fee, the County is required to undertake to develop and implement a revenue neutral permit fee.

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It is respectfully requested that this fee be developed and implemented within 30 days of the date of this letter. If not, there will be no choice but to seek a writ of mandate compelling the performance of this ministerial duty.

Thank you for your attention in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Tom Myers/c".

Tom Myers
General Counsel
AIDS Healthcare Foundation