

REPORT AND  
ANALYSIS

# SURVEY OF FLORIDA APPRAISERS

## EFFECTS OF LAND USES ON MARKET VALUES

PREPARED FOR

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May 2008

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## INTRODUCTION

### OVERVIEW

Palm Beach County, Florida, retained the consultant team described below to conduct a survey of real estate appraisers to determine their opinions of the effects certain land uses had on residential and commercial market values. The specific intent of the survey was to determine what impact, if any, sexually oriented businesses had on market values of residential and other commercial properties. The internet-assisted survey was sent to 805 Florida appraisers who are Members of the Appraisal Institute<sup>1</sup> (MAIs - commercial/general appraisers) and Senior Residential Appraisers (SRAs - residential appraisers). The survey had a response rate of 26.4 percent and an overall margin of error of 5.78 percent.

### CONSULTANT TEAM

Palm Beach County retained Duncan Associates, in association with Cooper Consulting Company, Inc., to undertake a study of certain secondary effects of sexually oriented businesses. Project manager for the study was Eric Damian Kelly, Ph.D., FAICP, vice president with Duncan Associates. Working with Duncan Associates were Connie B. Cooper, FAICP, of Cooper Consulting Company, Inc., Dallas, Texas and Shawn Wilson, MAI, of Compass Real Estate Consulting, Inc., Lakeland, Florida. Assisting the team in survey design and data analysis was David C. Keuhl, Ph.D., a faculty member at the University of Wisconsin, River Falls.



Cooper and Kelly are co-authors of the American Planning Association's Planning Advisory Service Report *Everything You Always Wanted to Know About Regulating Sex Businesses*. They are frequent collaborators in working with communities on the regulation of sexually oriented businesses to minimize their secondary effects. The work was performed under the supervision of the Office of the County Attorney.

### REGULATING SEXUALLY ORIENTED BUSINESSES

Regulation of sexually oriented businesses has become one of the more challenging tasks facing communities today. Regulations must balance legitimate community concerns about the businesses with the First Amendment rights of the business owners and customers.

Courts increasingly demand that local governments base their zoning regulations of sexually oriented businesses on documented land-use effects of those businesses. Recent court decisions indicate that a local government representing a jurisdiction of significant size is in a better position legally if it conducts its own study of those impacts, rather than relying on published studies or studies conducted in other communities.

Most regulations of sexually oriented businesses are directed at nude or topless bars, XXX video stores and other establishments devoted almost entirely to sexually oriented activities. However, many well-regarded mainstream retail businesses include in their stock a measurable proportion of arguably

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<sup>1</sup> <http://www.appraisalinstitute.org>

sexually oriented material; such businesses include the video rental stores with “adults only” backrooms, news dealers with isolated racks of adult magazines and a variety of specialty stores that may include certain sexually oriented items.

Although those who take the most negative view of sexually oriented activities and materials would lump all such businesses together, this creates an impossible situation, legally and politically. First, any broad limitation on any business with any “sexually oriented” materials or



activities would ultimately apply to every bookstore, every movie rental store, every news dealer and, arguably, a variety of other merchants, such as Victoria’s Secret, which trades on the fringes of this market in some of the nation’s most upscale malls. Although those who would like to see such materials and activities eliminated completely from a community, the fact remains that there are technically x-rated scenes in major works of literature, and brief nudity and sexual activity in Academy award-winning motion pictures.

### ***SEXUALLY-ORIENTED BUSINESSES AND THE COURTS***

Regulation of sex businesses is one of the most litigated areas of land-use law today. Communities that have tried to bar most or all sex businesses have generally lost court challenges to their regulatory schemes. In that context, a community must make reasonable provision for the existence of some sexually oriented businesses; on the other hand, it is also clear that a community need not necessarily allow every such establishment to offer the full range of sexually oriented products or activities that its proprietors might like to offer. Courts have also recognized that a sexually oriented business (such as a bookstore handling adult media) is different from other businesses offering similar products that are not sexually oriented (a Barnes and Noble type bookstore). Likewise, courts have recognized that sexually oriented retail businesses have different impacts than those businesses with sexually oriented onsite entertainment. Palm Beach County can adopt and implement different zoning regulations for such businesses, provided that the effect is not a complete ban on all such businesses.

Regulations that attempt to censor specific messages or that otherwise target the message itself are subject to “strict scrutiny” in the courts, a standard which places a heavy burden on a government to show a “compelling state interest” that justifies the regulations. See, for example, *Boos v. Barry*, 85 U.S. 312, 108 S. Ct. 1157, 99 L. Ed. 2d 333 (1988). But where the regulations are aimed at the secondary effects of sexually oriented businesses, they will be treated as “content neutral” and subject only to “intermediate scrutiny,” a far less burdensome standard for local governments to meet. See *City of Los Angeles v. Alameda Books, Inc.*, 152 L. Ed. 2d 670, 122 S. Ct. 1728 (U.S. 2002).

Palm Beach County has long been the home to a number of sexually oriented businesses, both in its municipalities and in the unincorporated areas of the County. Duncan Associates has assisted the County in assessing the adequacy of available sites in the County to meet Constitutional requirements for “alternative avenues.” This study was originally requested in the context of litigation, in which a particular sexually oriented business challenged the County’s regulations, challenging in part the County’s finding that there are secondary effects of such businesses. That litigation was settled, but the County requested that the consultants complete the study to supplement the County’s record and to provide part of a legislative predicate for future updates to the regulations.

### ***LEGAL CONTEXT***

#### **Effect of the First Amendment on Local Regulation of Sex Businesses -- Generally**

The First Amendment provide in pertinent part, “Congress shall make no law. . . abridging the freedom of speech, or of the press. . . .” The effect of that language has been construed by the Supreme Court to

limit but not eliminate the authority of local governments to regulate land-use aspects of activities that are protected by the First Amendment, including those aspects of sexually oriented businesses that fall under the scope of that protection.

The Supreme Court has squarely upheld the authority of local governments to regulate the location of sexually oriented businesses through zoning. *Young v. American Mini-Theatres, Inc.*, 427 U.S. 50, 96 S. Ct. 2440, 49 L. Ed. 2d 310 (1976). There are significant Constitutional boundaries for the manner and scope of local regulations that affect First Amendment rights. *Playtime Theatres, Inc. v. City of Renton*, 475 U.S. 41, 106 S. Ct. 925, 89 L. Ed. 2d 29 (1986), involving zoning for a sexually oriented motion picture theater; *City of Lakewood v. Plain Dealer Publishing Co.*, 486 U.S. 750, 108 S. Ct. 2138, 100 L. Ed. 2d 771 (1988), successfully challenging a permitting system for placement of newspaper vending boxes on city sidewalks; and *City of Cincinnati v. Discovery Network*, 507 U.S. 410, 113 S. Ct. 1505, 123 L. Ed. 2d 99 (1993), holding unconstitutional an attempt by the city to define “newspaper” in a way that limited the types of publications that could be placed in sidewalk vending boxes. Although two of those cases involve newsracks they are important cases in considering the interaction of local government with the First Amendment

The basic constitutional principles used in evaluating the constitutionality of regulations affecting First Amendment-protected activity were set forth by the Supreme Court as a four-part test in *Central Hudson Gas & Electric Corp. v. Public Service Commission*, 447 U.S. 557, 100 S. Ct. 2343, 65 L. Ed. 2d 341 (1980), restated by the plurality in *Metromedia, Inc. v. City of San Diego*, 453 U.S. 490, 101 S. Ct. 2882, 69 L. Ed. 2d 800 (1981), as follows:

- (1) The First Amendment protects commercial speech only if that speech concerns lawful activity and is not misleading. A restriction on otherwise protected commercial speech is valid only if it (2) seeks to implement a substantial governmental interest, (3) directly advances that interest, and (4) reaches no further than necessary to accomplish the given objective.

453 U.S. 490, 101 S. Ct. 2882, 69 L. Ed. 2d 800 (1981).

If an ordinance is not in violation of First Amendment doctrine under one of the bases discussed above, then it is analyzed as a time, place, and manner restriction. The classic formulation of the four-part “time, place, and manner” test was presented by the Supreme Court in *United States v. O’Brien*, 391 U.S. 367, 88 S. Ct. 1673, 20 L. Ed. 2d 672 (1968):

- (1) the regulation is within the power of the government;
- (2) it furthers an important government interest;
- (3) the government interest is unrelated to the suppression of speech; and
- (4) the incidental restrictions on free speech are no greater than are essential to further the interest.

391 U.S. 367, 377, 88 S. Ct. 1673, 1679, 20 L. Ed. 2d 672, 680 (1968).

The first modern decision in which the U.S. Supreme Court upheld local regulation of sexually oriented businesses was *Young v. American Mini-Theatres, Inc.*, 427 U.S. 50, 96 S. Ct. 2440, 49 L. Ed. 2d 310 (1976), in which the Court upheld a Detroit zoning ordinance effectively requiring “dispersion” of adult motion picture theaters by requiring a 1,000-foot separation between any such theater established in the future and any existing such theater. Much of the analysis in that decision dealt with the extent to which the First Amendment protects sexually oriented communication. As I moved on to issues more relevant here, the Court offered this summary of its position on that issue:

Moreover, even though we recognize that the First Amendment will not tolerate the total suppression of erotic materials that have some arguably artistic value, it is manifest that society's interest in protecting this type of expression is of a wholly different, and lesser,

magnitude than the interest in untrammelled political debate that inspired Voltaire's immortal comment. Whether political oratory or philosophical discussion moves us to applaud or to despise what is said, every schoolchild can understand why our duty to defend the right to speak remains the same. But few of us would march our sons and daughters off to war to preserve the citizen's right to see "Specified Sexual Activities" exhibited in the theaters of our choice. Even though the First Amendment protects communication in this area from total suppression, we hold that the State may legitimately use the content of these materials as the basis for placing them in a different classification from other motion pictures.

427 U.S. at 70-71, 96 S. Ct. at 2452, 49 L. Ed. 2d at 326.

The Court then continued with this discussion, applying the four-part *O'Brien* test:

The remaining question is whether the line drawn by these ordinances is justified by the city's interest in preserving the character of its neighborhoods. On this question we agree with the views expressed by District Judges Kennedy and Gubow. The record discloses a factual basis for the Common Council's conclusion that this kind of restriction will have the desired effect. [footnote in original here; quoted below] It is not our function to appraise the wisdom of its decision to require adult theaters to be separated rather than concentrated in the same areas. In either event, the city's interest in attempting to preserve the quality of urban life is one that must be accorded high respect. Moreover, the city must be allowed a reasonable opportunity to experiment with solutions to admittedly serious problems.

Since what is ultimately at stake is nothing more than a limitation on the place where adult films may be exhibited, even though the determination of whether a particular film fits that characterization turns on the nature of its content, we conclude that the city's interest in the present and future character of its neighborhoods adequately supports its classification of motion pictures. [second footnote, in last paragraph, omitted]

427 U.S. at 71-72, 96 S. Ct. at 2452-53, 49 L. Ed. 2d at 326-27. The footnote in the extract above was material to the discussion here. It read in full:

The Common Council's determination was that a concentration of "adult" movie theaters causes the area to deteriorate and become a focus of crime, effects which are not attributable to theaters showing other types of films. It is this **secondary effect** which these zoning ordinances attempt to avoid, not the dissemination of "offensive" speech. In contrast, in *Erznoznik v. City of Jacksonville*, 422 U.S. 205, the justifications offered by the city rested primarily on the city's interest in protecting its citizens from exposure to unwanted, "offensive" speech. The only secondary effect relied on to support that ordinance was the impact on traffic - an effect which might be caused by a distracting open-air movie even if it did not exhibit nudity. [emphasis added]

427 U.S. at 71, fn. 34, 96 S. Ct. at 2452, 49 L. Ed. 2d at 326.

Eight years after it upheld the Detroit zoning ordinance, the Court again dealt with zoning regulations affecting sexually oriented businesses. *Playtime Theatres, Inc. v. City of Renton*, 475 U.S. 41, 106 S. Ct. 925, 89 L. Ed 2d 29 (1986). This time, the question of whether the First Amendment protected sexually oriented movies was essentially resolved, and most of the discussion focused on the effect of the First Amendment on local efforts to regulate where they could be show. In this decision, the Court discussed *O'Brien* extensively but used an abbreviated form of the *O'Brien* test – “whether the Renton ordinance is designed to serve a substantial governmental interest and allows for reasonable alternative avenues of communication.” 475 U.S. at 49, 106 S. Ct. at 930, 89 L. Ed 2d at 39 (1986). The second part of the abbreviated test, deal with “reasonable alternative avenues” is not relevant to this report or this discussion, but it is worth reviewing the Court’s discussion of the first part of its abbreviated test:

It is clear that the ordinance meets such a standard. As a majority of this Court recognized in *American Mini Theatres*, a city's "interest in attempting to preserve the quality of urban life is one that must be accorded high respect." 427 U.S., at 71 (plurality opinion); see *id.*, at 80 (POWELL, J., concurring) ("Nor is there doubt that the interests furthered by this ordinance are both important and substantial"). Exactly the same vital governmental interests are at stake here.

The Court of Appeals ruled, however, that because the Renton ordinance was enacted without the benefit of studies specifically relating to "the particular problems or needs of Renton," the city's justifications for the ordinance were "conclusory and speculative." 748 F.2d, at 537. We think the Court of Appeals imposed on the city an unnecessarily rigid burden of proof. The record in this case reveals that Renton relied heavily on the experience of, and studies produced by, the city of Seattle. In Seattle, as in Renton, the adult theater zoning ordinance was aimed at preventing the secondary effects caused by the presence of even one such theater in a given neighborhood. See *Northend Cinema, Inc. v. Seattle*, 90 Wash. 2d 709, 585 P. 2d 1153 (1978). The opinion of the Supreme Court of Washington in *Northend Cinema*, which was before the Renton City Council when it enacted the ordinance in question here, described Seattle's experience as follows:

"The amendments to the City's zoning code which are at issue here are the culmination of a long period of study and discussion of the problems of adult movie theaters in residential areas of the City. . . . [The] City's Department of Community Development made a study of the need for zoning controls of adult theaters . . . . The study analyzed the City's zoning scheme, comprehensive plan, and land uses around existing adult motion picture theaters. . . ." *Id.*, at 711, 585 P. 2d, at 1155.

"[The] [trial] court heard extensive testimony regarding the history and purpose of these ordinances. It heard expert testimony on the adverse effects of the presence of adult motion picture theaters on neighborhood children and community improvement efforts. The court's detailed findings, which include a finding that the location of adult theaters has a harmful effect on the area and contribute to neighborhood blight, are supported by substantial evidence in the record." *Id.*, at 713, 585 P. 2d, at 1156.

"The record is replete with testimony regarding the effects of adult movie theater locations on residential neighborhoods." *Id.*, at 719, 585 P. 2d, at 1159.

We hold that Renton was entitled to rely on the experiences of Seattle and other cities, and in particular on the "detailed findings" summarized in the Washington Supreme Court's *Northend Cinema* opinion, in enacting its adult theater zoning ordinance. The First Amendment does not require a city, before enacting such an ordinance, to conduct new studies or produce evidence independent of that already generated by other cities, so long as whatever evidence the city relies upon is reasonably believed to be relevant to the problem that the city addresses. That was the case here. Nor is our holding affected by the fact that Seattle ultimately chose a different method of adult theater zoning than that chosen by Renton, since Seattle's choice of a different remedy to combat the secondary effects of adult theaters does not call into question either Seattle's identification of those secondary effects or the relevance of Seattle's experience to Renton.

475 U.S. at 49-52, 106 S. Ct. at 930-31, 89 L. Ed 2d at 39-41.

Although the Court appeared to restate only the second part of the *O'Brien* test ("it furthers an important government interest") in its abbreviated test in *Renton*, the third part of the *O'Brien* test ("the government interest is unrelated to the suppression of speech") was implicit in that shorthand holding. Paragraphs earlier in the decision, the Court said:

The District Court's finding as to "predominate" intent, left undisturbed by the Court of Appeals, is more than adequate to establish that the city's pursuit of its zoning interests here was unrelated to the suppression of free expression. The ordinance by its terms is designed to prevent crime, protect the city's retail trade, maintain property values, and generally "[protect] and [preserve] the quality of [the city's] neighborhoods, commercial districts, and the quality of urban life," not to suppress the expression of unpopular views. See App. to Juris. Statement 90a. As JUSTICE POWELL observed in *American Mini Theatres*, "[if] [the city] had been concerned with restricting the message purveyed by adult theaters, it would have tried to close them or restrict their number rather than circumscribe their choice as to location." 427 U.S., at 82, n. 4.

475 U.S. at 4, 106 S. Ct. at 929, 89 L. Ed 2d at 38.

### **Context for "Secondary Effects" Studies**

The second part of the *O'Brien* test of the validity of a local regulation of sex businesses ("it furthers an important government interest") and its third part ("the government interest is unrelated to the suppression of speech") have become inextricably intertwined, because it is clear that the only defensible governmental interest that will support regulation of such businesses is one that is "unrelated to the suppression of speech." If the state's purpose relates to the suppression of speech, the ordinance will be subject to "strict scrutiny," (see *Illusions - Dallas Private Club, Inc. v. Steen*, 482 F.3d 299, 308 (5th Cir. Tex. 2007)), a standard of review that reverses the presumption of validity, leaving the government with an almost insurmountable burden (see, for example, *Lorillard Tobacco Co. v. Reilly*, 121 S. Ct. 2404, 150 L. Ed. 2d 532 (U.S. 2001), striking down a Massachusetts ban on advertising tobacco products within a prescribed radius of schools, parks and other facilities); there the Court acknowledged the government's legitimate interest in curtailing youthful smoking but found the advertising ban unconstitutional). Another issue which is closely related to the second and third parts of the *O'Brien* test is the issue of "narrow tailoring." See *Illusions - Dallas Private Club, Inc. v. Steen*, 482 F.3d 299 (5th Cir. Tex. 2007), where the court merged these issues into one, framing it:

the regulation is designed to serve a substantial governmental interest, is narrowly tailored, and reasonable alternative avenues of communication remain available, or, alternatively, the regulation furthers an important or substantial governmental interest and the restriction on expressive conduct is no greater than is essential in furtherance of that interest.

482 F.3d at 311. The "narrow tailoring" issue looks at the relationship between the secondary effects that the ordinance or law is designed to address and the apparent effect of the law. To give a simple example, if a city has a study that shows that nude dancing produces negative secondary effects and, as a result, decides to ban all dancing, it has a "narrow tailoring" problem. The issue has been presented and discussed in *Encore Videos, Inc. v. City of San Antonio*, 330 F.3d 288 (5th Cir. Tex. 2003) and *H & A Land Corp v. City of Kennedale*, 480 F.3d 336 (5th Cir. Tex. 2007), both dealing with the question of whether studies showing negative secondary effects of various sex businesses were adequate to support ordinances related to retail-only book and video stores. See, also, *Schad v. Borough of Mt. Ephraim*, 452 U.S. 61, 101 S. Ct. 2176, 68 L. Ed. 2d 671 (1981), where a small town in New Jersey was concerned about the potential of nude dancing at a local establishment and thus banned all live entertainment in the town.

The authors view the "narrow tailoring" issue more as a drafting issue than as a pure "secondary effects" issue and, for that reason, it is not further discussed as a separate issue in this analysis. It is important to remember, however, and to remind elected officials that, the fact that a local government has evidence showing that a variety of sexually oriented businesses cause negative secondary effects may not support every type of ordinance that elected officials might like to adopt.



The focus of the rest of this analysis is on the critical step of documenting and analyzing “negative secondary effects” as the basis for developing, adopting or defending<sup>2</sup> Constitutionally valid regulations of sexually oriented businesses. It is critical to understand that the real issue is demonstrating a substantial governmental interest other than censorship as the basis for adopting regulations that infringe on First Amendment rights. Although lawyers representing the sex industry often argue in court that local governments should be required to provide essentially scientific evidence regarding the relationship of sex businesses to the issues addressed by local zoning and licensing ordinances, the Supreme Court in upholding a Los Angeles zoning ordinance affecting sex businesses in a 2002 decision set a much more reasonable test:

We held that a municipality may rely on any evidence that is “reasonably believed to be relevant” for demonstrating a connection between speech and a substantial, independent government interest.

*City of Los Angeles v. Alameda Books, Inc.*, 122 S. Ct. 1728, 152 L. Ed. 2d 670 (U.S. 2002), at 152 L.Ed. 2d 683, 122 S.Ct. 1735, remanded for further proceedings at 295 F.3d 1024 (9th Cir. 2002), citing and quoting briefly from *Playtime Theatres, Inc. v. City of Renton*, 475 U.S. 41, at 5152 (1986). Later in the opinion, the Court provided this discussion of its decision to reject the Ninth Circuit’s analysis of the data provided by the city and to accept the city’s analysis instead:

Both theories are consistent with the data in the 1977 study. The Court of Appeals' analysis, however, implicitly requires the city to prove that its theory is the only one that can plausibly explain the data because only in this manner can the city refute the Court of Appeals' logic.

152 L. Ed. 2d at 681, 122 S. Ct. at 1735.

## **SECONDARY EFFECTS STUDIES**

Researchers have conducted studies of real estate appraisers and professionals regarding the secondary impacts of sexually oriented businesses, including those incorporated in studies for Indianapolis, Indiana,<sup>3</sup> Austin, Texas;<sup>4</sup> Garden Grove, California;<sup>5</sup> and Rochester, New York.<sup>6</sup> Experts for the industry

<sup>2</sup> Although ideally a local government will develop a record documenting its governmental interest in adopting such regulations before adopting them and include appropriate evidence in the legislative record, that is not an absolute requirement today; a local government can certainly supplement its legislative record in the process of defending its ordinance (*City of Los Angeles v. Alameda Books, Inc.*, 122 S. Ct. 1728, 152 L. Ed. 2d 670 (U.S. 2002)) and it may be allowed to provide its entire analysis of the secondary effects addressed by the ordinance for the first time in litigation. See, for example, *Illusions - Dallas Private Club, Inc. v. Steen*, 482 F.3d 299, 310 (5th Cir. Tex. 2007, where the court held in part that “the plurality [in *Alameda books*] did not specify that a purpose unrelated to suppressing speech can only be demonstrated with a specific type of indicator such as legislative findings or a statutory preamble.” But see extract from *N.W. Enters. v. City of Houston*, 27 F. Supp. 2d 754 (S.D. Tex. 1998), set out in text almost immediately below, where the court noted that it was relying on the legislative record and the preamble to the ordinance in finding for the city.

<sup>3</sup> Indianapolis: “Adult Entertainment Businesses in Indianapolis, An Analysis,” 1984.

<sup>4</sup> Austin, Texas: “Report on Adult Oriented Businesses in Austin,” prepared by Office of Land Development Services, May 19, 1986.

<sup>5</sup> Garden Grove, California: “Final Report to the City of Garden Grove: the Relationship between Crime and Adult Business Operations on Garden Grove Boulevard,” Richard W. McCleary, Ph.D., James W. Meeker, J.D., Ph.D., October 23, 1991.

<sup>6</sup> Rochester, New York: “Survey of Appraisers in Monroe County, New York,” Summer 2000, results published in Kelly and Cooper, *Everything You Always Wanted to Know about Regulating Sex Businesses*, Planning Advisory Service Report No. 495-96. Chicago: American Planning Association, 2000; pages 51-57.

have challenged the methodology used in those surveys on two primary grounds – first, that the form of the surveys and the cover letters suggested to respondents what result the researchers wanted; and second, that the questions on the surveys did not distinguish among types of sexually oriented businesses.

Kelly and Cooper, the lead consultants on this project, carefully considered those criticisms in conducting a survey of appraisers in the Fort Worth-Dallas Metroplex in 2004.<sup>7</sup> In that survey, three different types of sexually oriented business were included: adult arcade/peep booths; adult novelty/media store (retail only); and gentleman’s club/cabaret. Those uses were included in an alphabetical list that included neutral land uses such as bookstores and religious institutions but also included other uses that are often considered LULUs (“Locally Unwanted Land Uses”). Potential LULUs on the list included homeless shelters, bars/lounges, pawn shops, and convenience stores with beer and wine.

More than 95 percent of appraisers responding to the Fort Worth-Dallas Metroplex survey said that all three types of sexually oriented business would have a negative effect on the value of a single-family residence; only homeless shelters were viewed as negatively by the appraisers as sexually oriented businesses. In addition, 87.5 percent said that a bar/lounge and pawn shop would also have a negative effect and some 80 percent said that a convenience store with beer and wine would have a negative effect.

Asked about the effect of the same land uses on the value of a community shopping center, 92.5 percent said that an adult store with peep show would have a negative effect and 89.2 percent (not a statistically significant difference) said a gentleman’s club or cabaret would have such an effect. The survey also indicated that retail-only sex businesses were a negative influence by 82.1 percent, ranking them with homeless shelters. The next closest use on the list of negative effects on the value of a community shopping center was a pawn shop, identified by 53.8 percent as having a negative effect.

The most commonly cited secondary effects of sexually oriented businesses on communities relate to incidence of crime and effects on surrounding property values. The incidence of crime was well documented in the Garden Grove study,<sup>8</sup> a study that would be difficult and expensive to replicate. Efforts to model the effects of particular uses on property values have proven to be very difficult to carry out effectively. The typical method, followed in sections of both the Indianapolis and Austin reports, is to compare trends in property values in an area with a sexually oriented business to trends in property values over the same period of time in a similar area without a sexually oriented business. There are multiple levels of comparison in such a study. One major challenge is trying to find “similar” areas. There will always be differences between the paired areas other than the sexually oriented business, and, without a large enough sample size to allow testing for other variables, it is difficult to determine how those other variables may be increasing or offsetting the apparent secondary effects of sexually oriented businesses. One area may have a park, while the other does not. One may have three small religious institutions while another has only two such institutions, but one of them turns out to be very large, with activities seven days a week. The area with the sexually oriented business may also have a pawn shop or a salvage yard or another use that may also have a negative effect on property values.

Even if researchers are able to identify truly comparable areas for the study, there is a further problem in tracking trends in property values. A study may use values assessed for tax purposes, a methodology

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<sup>7</sup> The formal report is “Survey of Appraisers, Fort Worth and Dallas: Effects of Land Uses on Surrounding Property Values,” prepared for the City of Fort Worth; Duncan Associates, September 2004.

<sup>8</sup> McCleary and Meeker, *op. cit.*

that is itself fraught with problems and that often includes a number of factors other than market value. Tracking the values of properties that actually sell may make sense, but there is no guarantee that similar properties will sell in the two similar areas over any reasonable study period. The sale of one deteriorated home in one area or of a couple of upscale homes in another can distort the results of studies based on the values of properties that are actually sold. Understanding those problems is not particularly difficult. Solving them in the context of a specific study in a specific community is very difficult indeed.

In contrast to the complexities of paired area studies, we believe that the opinions of appraisers provide an excellent and reliable measure of the effects of any kind of use or activity on market values. First, certified appraisers are experts in their fields, people who follow professional standards in making judgments about market values. Second, appraisers familiar with a local market look at the values of many properties every year and thus have a substantial data set not only in their files but also in their heads. Third, and perhaps most important, the opinions of appraisers are essentially self-fulfilling prophecies. Most real estate transactions that take place in this country involve mortgage loans. The amount available for a mortgage loan on a particular property depends on the market value of the property, as determined by an appraiser. Thus, to take an overly simple example, if most appraisers in a community believe that pink and green houses are worth, in general, 10 percent less than similar houses painted beige, the practical effect of that opinion will be to reduce the market value of pink and green houses.

## RESULTS OF SURVEY OF FLORIDA APPRAISERS

### SCOPE AND DESIGN OF FLORIDA SURVEY

This study consisted of a survey of MAI and SRA designated appraisers in Florida. E-mail addresses were available on the Appraisal Institute’s website. Using this information, we sent a link to an electronic survey form to 805 Florida MAI and SRA appraisers who had viable email addresses; we then sent follow-up e-mails as reminders. At the completion of the survey, we had 214 valid responses. The results were compiled electronically and then provided to us for analysis. The survey had a response rate of 26.4 percent and a margin of error of 5.78 percent. The survey instrument is included at the end of the report.

Through consultation with a Florida appraiser, Shawn Wilson, MAI, with additional assistance from David Keuhl, Ph.D., this survey further refined earlier surveys of appraisers we had conducted. For this survey, Wilson suggested the addition of some uses that appraisers often find to be of concern in determining market values – most notably high tension power lines and landfills. We added an additional sexually oriented business – a lingerie and adult novelties store. We also split the bar/lounge category into two parts, asking separately about the effects of a lounge with live entertainment and of a bar without live entertainment.

### EFFECT PROXIMITY HAS ON MARKET VALUE OF SINGLE-FAMILY RESIDENCE

#### Effect on Single-family home If Use Within 500 Feet

**Question: If located within 500 feet, how would the listed land use potentially affect the market value of a Single-Family Home?**

| Land Use                                      | Negative | Positive | No Impact | No Opinion |
|---|----------|----------|-----------|------------|
| Homeless Shelter                              | 94.3     | 0.0      | 0.9       | 4.7        |
| Gentleman's Club/Strip Club                   | 93.0     | 0.0      | 2.3       | 4.7        |
| Landfill                                      | 92.9     | 0.0      | 2.8       | 4.2        |
| Video Peep Booth Business                     | 92.5     | 0.9      | 1.9       | 4.7        |
| Adult Media & Video Store (retail sales only) | 90.1     | 0.5      | 5.2       | 4.2        |
| Lounge (with live entertainment)              | 90.1     | 0.9      | 4.7       | 4.2        |
| Lingerie & Adult Novelties Store              | 87.7     | 0.0      | 6.6       | 5.7        |
| Bar (no live entertainment)                   | 79.7     | 0.5      | 15.1      | 4.7        |
| Pawn Shop                                     | 77.4     | 0.9      | 16.0      | 5.7        |
| Package Liquor Store                          | 74.2     | 1.4      | 19.1      | 5.3        |
| High Voltage Power Lines                      | 73.7     | 0.0      | 22.5      | 3.8        |
| Convenience Store (beer/wine)                 | 43.9     | 10.8     | 41.0      | 4.2        |
| Grocery Store                                 | 25.8     | 40.4     | 30.5      | 3.3        |
| Elementary School                             | 18.0     | 52.6     | 24.6      | 4.7        |
| Coffee Shop                                   | 12.2     | 25.8     | 56.3      | 5.6        |
| Religious Institution                         | 11.4     | 25.1     | 56.9      | 6.6        |
| Neighborhood Playground                       | 5.7      | 68.9     | 21.7      | 3.8        |

Uses are ranked by the percentage of respondents indicating that a particular use would have a “negative” effect on market values; in the original survey, the uses were alphabetized.

Totals do not always add to 100% due effects of rounding.

Examining the table above, it is evident that that an overwhelming percent (94 percent) of the appraisers responding believe that a Gentleman’s Club/Strip Club has a negative effect on the market value of a single-family home if located within 500 feet; likewise, 93 percent believe that a Video Peep Booth Business, a Adult Media Video Store (90 percent) and Lingerie & Adult Novelties Store (88 percent) have similar effects on the market value of a single-family home if within 500 feet.

Interestingly, respondents believe that a Homeless Shelter (94 percent) and a Landfill (93 percent) have almost identical impacts on the market value of a single-family home as do many sexually oriented businesses.

**In summary, 88 percent or more of respondents believe that the following uses have the greatest negative impact on the market value of a single-family home if located within 500 feet:**

- Homeless Shelter (94%)
- Gentleman’s Club/Strip Club (93%)
- Landfill (93%)
- Video Peep Booth Business (93%)
- Adult Media & Video Store - retail sales only (90%)
- Lounge - with live entertainment (90%)
- Lingerie & Adult Novelties Store (88%)

**In addition, 70 - 80 percent respondents believe that the following uses are very likely to have a negative impact on the market value of a single-family home if located within 500 feet:**

- Bar - no live entertainment (80%)
- Pawn Shop (77%)
- Package Liquor Store (74%)
- High Voltage Power Lines (74%)

**In contrast, uses that are seen as having positive impacts on the market value of a single-family home if located within 500 feet are:**

- Elementary School
- Neighborhood Playground

**Uses that are seen as not much of an impact on the market value of a single-family home if located within 500 feet are:**

- Coffee Shop
- Religious Institution

**One use respondents seem the most divided as to the negative impact versus no impact on the market value of a single-family home if located within 500 feet is:**

- Convenience Store that sold beer/wine - 44 percent negative impact versus 41 percent no impact

**Effect on Single-Family Home by Increasing Separation Distances**

*Question: At what distance would there be No Measurable Impact on the Single-Family Home’s market value?*

| Land Use   | 500 ft to ¼ mile | ¼ mile to ½ mile | More than ½ mile | No Opinion  |
|--|------------------|------------------|------------------|-------------|
| Landfill   | 2.0              | 8.9              | 77.3             | 11.8        |
| <b>Video Peep Booth Business</b>                         | <b>2.5</b>       | <b>17.7</b>      | <b>69.0</b>      | <b>10.8</b> |
| <b>Gentleman’s Club/Strip Club</b>                       | <b>2.4</b>       | <b>19.9</b>      | <b>67.0</b>      | <b>10.7</b> |
| <b>Lingerie &amp; Adult Novelties Store</b>              | <b>3.5</b>       | <b>20.3</b>      | <b>66.3</b>      | <b>9.9</b>  |
| Homeless Shelter   | 2.4              | 22.7             | 62.8             | 12.1        |
| <b>Adult Media &amp; Video Store (retail sales only)</b> | <b>5.8</b>       | <b>23.1</b>      | <b>60.1</b>      | <b>11.1</b> |
| <b>Lounge (with live entertainment)</b>                  | <b>3.0</b>       | <b>30.5</b>      | <b>55.7</b>      | <b>10.8</b> |
| Pawn Shop  | 5.5              | 31.5             | 49.5             | 13.5        |
| Bar (no live entertainment)                              | 7.9              | 35.6             | 44.6             | 11.9        |
| Package Liquor Store                                     | 7.5              | 35.0             | 42.0             | 15.5        |
| High Voltage Power Lines                                 | 27.0             | 23.0             | 35.0             | 15.0        |
| Elementary School  | 22.4             | 25.0             | 27.6             | 25.0        |
| Grocery Store  | 15.5             | 36.8             | 27.5             | 20.2        |
| Convenience Store (beer/wine)                            | 20.9             | 39.8             | 25.5             | 13.8        |
| Religious Institution                                    | 26.5             | 23.2             | 20.5             | 29.7        |
| Neighborhood Playground                                  | 32.1             | 27.7             | 16.8             | 23.4        |
| Coffee Shop  | 32.6             | 23.0             | 15.5             | 28.9        |

*Uses are ranked by the percentage of respondents indicating that a particular use would require “more than ½ mile” separation; in the original survey, the uses were alphabetized.*

*Totals do not always add to 100% due effects of rounding.*

In response to the question “at what distance would there be no measurable impact,” 77 percent or more of the respondents believe that the negative impact of the following land uses do not disappear until at least a distance separation of quarter-mile or more (1320 feet +) from a single-family home:

- Gentleman’s Club/Strip Club (87%)
- Lingerie & Adult Novelties Store (87%)
- Video Peep Booth Business (87%)
- Landfill (86%)
- Homeless Shelter (86%)
- Lounge - with live entertainment (86%)
- Adult Media & Video Store - retail sales only (83%)
- Pawn Shop (81%)
- Bar - no live entertainment (80%)
- Package Liquor Store (77%)

Looking at six of the ten uses bulleted above, 60 percent or more of the respondents believe that the negative impact on market value do not disappear for the following uses until a separation distance of more than a half mile (2640 feet +) from a single-family home:

- Landfill (77%),
- Video Peep Booth Business (69%)
- Gentleman’s Club/Strip Club (67%)
- Lingerie & Adult Novelties Store (66%)
- Homeless Shelter (63%)
- Adult Media & Video Store - retail sales only (60%)

In most jurisdictions, zoning ordinances regulating sexually oriented businesses traditionally require separation distances from 500 – 1000 feet. However, we would caution against expanding existing separation distances without checking to confirm you are not eliminating all viable sites for sexually oriented businesses within your jurisdiction – a practice that the courts have strictly prohibited.

Although this study is primarily concerned with the impacts of sexually oriented businesses, it is interesting to note that the distance effects of homeless shelters and landfills on market values are essentially similar to those for sexually oriented businesses, as they were in the previous question. Not surprisingly, a large percentage of appraisers believe that the negative effects of landfills and homeless shelters on market value diminish only after a half mile or more. In addition, a large percentage of those responding believe that the secondary effects on a single-family home’s market value due to the proximity of a bar, lounge with live entertainment, pawn shop, and liquor store share many of the same impacts as sexually oriented business impacts.

**EFFECT PROXIMITY HAS ON MARKET VALUE OF COMMUNITY SHOPPING CENTER**

**Effect on Community Shopping Center If Use Within 500 Feet**

**Question: If located within 500 feet, how would the listed land use potentially affect the market value of a Community Shopping Center?**

| Land Use                                      | Negative | Positive | No Impact | No Opinion |
|---|----------|----------|-----------|------------|
| Homeless Shelter                              | 76.2     | 0.0      | 18.8      | 5.0        |
| Landfill                                      | 75.1     | 1.0      | 18.0      | 6.0        |
| Video Peep Booth Business                     | 67.8     | 0.0      | 28.2      | 4.0        |
| Gentleman’s Club/Strip Club                   | 61.2     | 0.0      | 34.3      | 4.5        |
| Adult Media & Video Store (retail sales only) | 58.4     | 0.0      | 38.1      | 3.5        |
| Lingerie & Adult Novelties Store              | 50.7     | 0.5      | 44.3      | 4.5        |
| Package Liquor Store                          | 26.5     | 2.5      | 66.0      | 5.0        |
| High Voltage Power Lines                      | 25.9     | 0.5      | 68.2      | 5.5        |
| Lounge (with live entertainment)              | 23.9     | 4.0      | 66.2      | 6.0        |
| Bar (no live entertainment)                   | 15.5     | 3.0      | 78.0      | 3.5        |
| Pawn Shop                                     | 11.5     | 7.5      | 77.0      | 4.0        |
| Elementary School                             | 8.0      | 12.9     | 74.6      | 4.5        |
| Religious Institution                         | 5.2      | 7.8      | 87.0      | 0.0        |
| Neighborhood Playground                       | 3.0      | 10.9     | 81.1      | 5.0        |

*Uses are ranked by the percentage of respondents indicating that a particular use would have a “negative” effect on market values; in the original survey, the uses were alphabetized.*

*Totals do not always add to 100% due effects of rounding.*

As to the impact on the market value of a community shopping center, clearly many appraisers believe that there is less of a negative impact by sexually-oriented uses and other high-impact uses on a shopping center than on a single-family home. It is important to note, however, that, even after allowing for the margin of error, a significant majority of appraisers believe that all types of sexually oriented businesses identified in the survey have a negative effect on the market value of a community shopping center.

Interestingly, respondents believe that a Homeless Shelter (76 percent) and a Landfill (75 percent) have almost identical impacts on the market value of a community shopping center if located within 500 of the center.

**In summary, 51 percent or more of respondents believe that the following uses have a negative impact on the market value of a community shopping center if located within 500 feet:**

- Homeless Shelter (76%)
- Landfill (75%)
- Video Peep Booth Business (68%)
- Gentleman's Club/Strip Club (61%)
- Adult Media & Video Store - retail sales only (58%)
- Lingerie & Adult Novelties Store (51%)

**In stark contrast to the impact on single-family homes, 66 percent or more of respondents believe that the following uses have no impact on the market value of a community shopping center if located within 500 feet:**

- Package Liquor Store (66%)
- Lounge - with live entertainment (66%)
- High Voltage Power Lines (68%)
- Elementary School (75%)
- Pawn Shop (77%)
- Bar - no live entertainment (78%)
- Neighborhood Playground (81%)
- Religious Institution (87%)



**Effect on Community Shopping Center by Increasing Separation Distances**

**Question: At what distance would there be No Measurable Impact on the Community Shopping Center's market value?**

| Land Use   | 500 ft to ¼ mile | ¼ mile to ½ mile | More than ½ mile | No Opinion  |
|--|------------------|------------------|------------------|-------------|
| Landfill   | 7.1              | 17.4             | 59.8             | 15.8        |
| Homeless Shelter   | 11.0             | 24.7             | 49.5             | 14.8        |
| <b>Video Peep Booth Business</b>                         | <b>11.2</b>      | <b>25.7</b>      | <b>44.1</b>      | <b>19.0</b> |
| <b>Gentleman's Club/Strip Club</b>                       | <b>17.1</b>      | <b>24.0</b>      | <b>40.6</b>      | <b>18.3</b> |
| <b>Lingerie &amp; Adult Novelties Store</b>              | <b>18.4</b>      | <b>23.0</b>      | <b>36.8</b>      | <b>21.8</b> |
| <b>Adult Media &amp; Video Store (retail sales only)</b> | <b>18.4</b>      | <b>25.1</b>      | <b>35.8</b>      | <b>20.7</b> |
| Lounge (with live entertainment)                         | 23.5             | 19.9             | 25.9             | 30.7        |
| Package Liquor Store                                     | 25.2             | 23.9             | 19.6             | 31.3        |
| Bar (no live entertainment)                              | 30.4             | 14.9             | 18.6             | 36.0        |
| High Voltage Power Lines                                 | 28.3             | 18.7             | 21.1             | 31.9        |
| Elementary School  | 32.1             | 12.7             | 17.6             | 37.6        |
| Pawn Shop  | 31.9             | 15.0             | 17.5             | 35.6        |
| Neighborhood Playground                                  | 32.9             | 13.0             | 13.0             | 41.0        |
| Religious Institution                                    | 34.8             | 14.9             | 10.6             | 39.8        |

*Uses are ranked by the percentage of respondents indicating that a particular use would require "more than ½ mile" separation; in the original survey, the uses were alphabetized.*

*Totals do not always add to 100% due effects of rounding.*

In response to the question "at what distance would there be no measurable impact," 60 percent or more of the respondents believe that the negative impact of the following land uses do not disappear until at least a distance separation of quarter-mile or more (1320 feet +) from a community shopping center:

- Landfill (77%)
- Homeless Shelter (74%)
- Video Peep Booth Business (70%)
- Gentleman's Club/Strip Club (65%)
- Adult Media & Video Store - retail sales only (61%)
- Lingerie & Adult Novelties Store (60%)

However, only landfills and homeless shelters were viewed as needing a separation distance of more than a half mile (2640 feet +) from a community shopping center before the negative impact on market value disappeared.

Overall response rates to this question were lower than to other questions. The significant number of respondents who expressed "no opinion" indicates that clear findings regarding impacts on shopping centers are more difficult to make. The percentages of respondents who believe that the negative effects extend a half mile or more are far lower than those shown for single-family homes.

As with the issue of separation distances from single-family homes, we would caution against increasing separation distances from commercial uses without checking to confirm you are not eliminating all viable sites for sexually oriented businesses within your jurisdiction – a practice that the courts have strictly prohibited.

**EFFECT CONCENTRATION HAS ON SINGLE FAMILY HOMES AND SHOPPING CENTERS**

**Concentration of Uses Effect on Single-family home**

**Question: Would a concentration (2 or more uses within a couple of blocks) have additional impact on the Single-Family Home's market value?**

| Land Use                                      | Yes Added Impact | No Added Impact | No Opinion |
|---|------------------|-----------------|------------|
| Gentleman's Club/Strip Club                   | 83.7             | 8.9             | 7.4        |
| Adult Media & Video Store (retail sales only) | 82.8             | 8.4             | 8.9        |
| Video Peep Booth Business                     | 81.1             | 10.0            | 9.0        |
| Landfill                                      | 80.3             | 12.8            | 6.9        |
| Homeless Shelter                              | 79.0             | 11.2            | 9.8        |
| Lingerie & Adult Novelties Store              | 76.8             | 14.1            | 9.1        |
| Lounge (with live entertainment)              | 75.5             | 17.5            | 7.0        |
| Bar (no live entertainment)                   | 72.8             | 19.3            | 7.9        |
| Pawn Shop                                     | 66.5             | 24.9            | 8.6        |
| High Voltage Power Lines                      | 65.8             | 21.1            | 13.1       |
| Package Liquor Store                          | 62.1             | 28.2            | 9.7        |
| Convenience Store (beer/wine)                 | 44.1             | 45.6            | 10.3       |
| Grocery Store                                 | 35.1             | 53.1            | 11.9       |
| Neighborhood Playground                       | 28.4             | 58.2            | 13.4       |
| Elementary School                             | 28.1             | 56.8            | 15.1       |
| Religious Institution                         | 24.1             | 59.7            | 16.2       |
| Coffee Shop                                   | 17.9             | 69.2            | 12.8       |

**Concentration of Uses Effect on Community Shopping Center**

**Question: Would a concentration (2 or more uses within a couple of blocks) have additional impact on the Community Shopping Center's market value?**

| Land Use                                      | Yes Added Impact | No Added Impact | No Opinion |
|---|------------------|-----------------|------------|
| Homeless Shelter                              | 69.9             | 21.5            | 8.6        |
| Gentleman's Club/Strip Club                   | 69.4             | 23.7            | 7.0        |
| Landfill                                      | 67.7             | 22.6            | 9.7        |
| Adult Media & Video Store (retail sales only) | 64.4             | 27.7            | 7.9        |
| Video Peep Booth Business                     | 63.6             | 28.9            | 7.5        |
| Lingerie & Adult Novelties Store              | 60.3             | 31.5            | 8.2        |
| High Voltage Power Lines                      | 36.5             | 48.9            | 14.6       |
| Package Liquor Store                          | 35.8             | 53.1            | 11.2       |
| Lounge (with live entertainment)              | 33.5             | 55.3            | 11.2       |
| Bar (no live entertainment)                   | 27.5             | 62.4            | 10.1       |
| Pawn Shop                                     | 23.9             | 64.8            | 11.4       |
| Elementary School                             | 18.6             | 69.8            | 11.6       |
| Neighborhood Playground                       | 14.7             | 71.8            | 13.6       |
| Religious Institution                         | 12.6             | 72.6            | 14.9       |

*Uses are ranked by the percentage of respondents indicating that a particular use would have added impact due to a concentration of uses; in the original survey, the uses were alphabetized.*

*Totals do not always add to 100% due effects of rounding.*

The question regarding the additional impact to a Single-Family Home or Community Shopping Center due to a concentration of certain uses was somewhat imperfect as it related to Landfills, Elementary Schools or Neighborhood Playgrounds. It is highly unlikely that there would be a concentration of these land uses. However, to maintain the integrity of the survey, we did not wish to delete a use from the alphabetized list of uses for purposes of a particular question.

As the question of a concentration of uses relates to such uses as a Gentleman’s Club/Strip Club, Adult Novelties Store, Video Peep Booth Business, Lounge, Bar, Adult Media Store, Pawn Shop, Package Liquor Store and Homeless Shelter, there is a high probability of them occurring in proximity to each other. Furthermore, other studies suggest that the concentration of sexually oriented uses and certain other types of uses increases disproportionately the effects on crime rates in the surrounding area. Few studies have attempted to analyze the extent to which a concentration increases the negative effects on market values.

In the opinions of Florida appraisers, a concentration of sexually oriented businesses and similar adult-oriented uses (bars and lounges) clearly increases the negative effects on the market values of single-family homes. A concentration of sexually oriented businesses (and/or of homeless shelters) stands out as having the most potential negative effect on the market value of a community shopping center; a concentration of bars or lounges is considered by significantly less than a majority of appraisers to have a potentially negative effect on the market value of such a center.

The table below compares the impact respondents believe concentrations of certain uses have as they relate to proximity to a Single-Family Home or Community Shopping Center:

| <b>Concentration of Land Uses</b>             | <b>Added Impact on Single-Family</b> | <b>Added Impact on Shopping Center</b> |
|---|--------------------------------------|--|
| Gentleman’s Club/Strip Club                   | 83.7                                 | 69.4                                   |
| Adult Media & Video Store (retail sales only) | 82.8                                 | 64.4                                   |
| Video Peep Booth Business                     | 81.1                                 | 63.6                                   |
| Homeless Shelter                              | 79.0                                 | 69.9                                   |
| Lingerie & Adult Novelties Store              | 76.8                                 | 60.3                                   |
| Lounge (with live entertainment)              | 75.5                                 | 33.5                                   |
| Bar (no live entertainment)                   | 72.8                                 | 27.5                                   |
| Pawn Shop                                     | 66.5                                 | 23.9                                   |
| High Voltage Power Lines                      | 65.8                                 | 36.5                                   |
| Package Liquor Store                          | 62.1                                 | 35.8                                   |

## OTHER QUESTIONS

### Effect of Operating Hours

**Question:** *Would a retail business open AFTER 11 PM have a negative impact on the market value of Single-Family Homes located within a 5-minute walk (1500 feet)?*

|                    | Always | Sometimes | Never | No Opinion |
|--------------------|--------|-----------|-------|------------|
| <b>Respondents</b> | 21     | 165       | 17    | 8          |
| <b>Percentage</b>  | 10.0   | 78.2      | 8.1   | 3.8        |

*Results reported here in percentage of respondents giving each answer.*

We asked if there would be negative impact created by a retail business open after 11 pm on the market value of single-family homes located within a 5-minute walk, because a number of communities have included limitations on the operating hours of sexually oriented businesses as part of their local regulatory schemes. The responses clearly support some limitations on operating hours of businesses within 1500 feet of single-family homes. Since a large majority (78 percent) responded “sometimes”, the difficulty is determining which businesses should be required to have limitations on operating hours. Some guidance is found in the responses given to earlier questions regarding proximity and impacts on single-family homes. For example, appraisers believe that convenience stores have less of a negative effect on a Single-Family Home’s market values than sexually oriented businesses.

Thus, these responses should not be interpreted as supporting a limitation on operating hours of all businesses, but only on particular businesses that were identified as having greater negative impacts such as sexually oriented businesses, pawn shops, and liquor stores. A local government may, of course, have other data that suggests that sexually oriented businesses might legitimately be limited in ways that other businesses are not.

### Effect of Garish Lighting or Signage

**Question:** *If you indicated certain land uses had negative impacts on the market value of a Single-Family Home, would bright, animated, or garish lighting or graphics increase the negative impact?*

|                    | Always | Sometimes | Never | No Opinion |
|--------------------|--------|-----------|-------|------------|
| <b>Respondents</b> | 79     | 119       | 1     | 8          |
| <b>Percentage</b>  | 38.2   | 57.5      | 0.5   | 3.9        |

*Results reported here in percentage of respondents giving each answer.*

These findings are also statistically significant and also hard to use. Although we had great confidence in using the adjective “garish” and believing that appraisers would know what we mean, attempting to limit “garish” lighting and graphics is far more difficult. “Garish” is simply not a regulatory term. Any attempt to regulate specific content of signs or graphics – beyond prohibiting obscene messages and nude images on signs – raises significant First Amendment issues. We have studied sex businesses in many communities, and we have never seen a sign on such a business that came close to our definition of “obscene,” and we have rarely seen one that would violate a ban on public displays of nudity. Some communities have tried to limit lighting and signage at sexually oriented businesses, and the responses to this question would support such limitations at sex businesses and other high-impact uses (including pawn shops, which often have signs that we would consider garish).

**WHO RESPONDED**

Examining who responded to the survey, the consultant team was pleased to see that respondents were reasonably dispersed throughout Florida. The Tampa-St. Petersburg and Central Florida had the strongest response rate. The response rate from Palm Beach County appraisers appears to be strong also.

**Question: What are your general areas of practice? (You may choose up to two)**

| County of General Practice  | Responses | Percent |
|---|-----------|---------|
| Tampa-St. Petersburg (Hillsborough, Pasco, Hernando & Pinellas Counties)          | 48        | 13.9%   |
| Central Florida (Seminole, Osceola, Lake & Orange Counties)                       | 42        | 12.2%   |
| Broward County  | 32        | 9.3%    |
| Palm Beach County   | 27        | 7.8%    |
| Miami-Dade County   | 26        | 7.5%    |
| NW Florida (Escambia, Santa Rosa, Okaloosa, Walton, Bay, Leon & Gadsden Counties) | 24        | 7.0%    |
| Sarasota-Bradenton – Manatee & Sarasota Counties                                  | 24        | 7.0%    |
| SW Florida (Charlotte, Lee & Collier Counties)                                    | 24        | 7.0%    |
| NE Florida (Duval, Nassau, St. Johns, Baker & Clay Counties)                      | 23        | 6.7%    |
| E. Central Florida (Volusia & Brevard Counties)                                   | 20        | 5.8%    |
| Treasure Coast (Indian River, Martin & St. Lucie Counties)                        | 19        | 5.5%    |
| Lakeland-Winter Haven (Polk County)   | 15        | 4.3%    |
| N. Central Florida (Alachua, Marion & Gilchrist Counties)                         | 12        | 3.5%    |
| Other Location  | 9         | 2.6%    |

*Responses total more than number of respondents due to choosing more than one area of practices*

We found it interesting to find that over 88 percent of those responding to the survey had 20 or more years of real estate appraisal experience. Clearly we heard from the seasoned professional.

**Question: How many years of real estate appraisal experience do you have?**

|                    | 1 – 9 years | 10 – 19 years | 20 – 29 years | 30+ years |
|--------------------|-------------|---------------|---------------|-----------|
| <b>Respondents</b> | 3           | 22            | 103           | 86        |
| <b>Percentage</b>  | 1.4         | 10.3          | 48.1          | 40.2      |

*Results reported here in percentage of respondents giving each answer.*

We have always found it worthwhile to ask if “personal, moral or ethical beliefs” affected responses. Having over 70 percent indicate “NO”, strengthens the view that the responses are not influenced by individual biases.

**Question: Do you believe that your personal, moral or ethical beliefs have affected your responses to any of the questions in this survey?**

|                    | Yes  | No   |
|--------------------|------|------|
| <b>Respondents</b> | 60   | 153  |
| <b>Percentage</b>  | 28.2 | 71.8 |

*Results reported here in percentage of respondents giving each answer.*

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***RESPONSE RATE AND MARGIN OF ERROR***

Links to the electronic survey were sent to the email addresses of 805 appraisers holding the SRA or MAI designation in Florida. Of those contacted, 213 completed the survey. This resulted in a response rate of 26.46 percent which yielded an overall margin of error of 5.78 percent.

We are comfortable and confident in the results of the survey given that the major findings regarding the effects of sex businesses on the market value of single-family homes were supported by 79 to 95 percent of the respondents. Even if the entire margin of error were applied negatively and the resulting responses were thus directly reduced (which is a worst-case example of possible error and not a statistically valid technique), the results would drop to a range of 73 to 89 percent of the respective respondents, still a very strong and firm finding on all of the major issues regarding single-family homes. The percentage of appraisers reporting that they believe that there would be a negative effect on the market value of a community shopping center was somewhat smaller, but, here, also, even applying the margin of error as an entirely negative factor would leave well over half the respondents reporting that most sex businesses will have a negative effect on the market value of a community shopping center.

Although we are pleased with the response rate, we acknowledge that other surveys of appraisers have garnered a higher response rate primarily because they were sponsored by an appraisal member association such as the Appraisal Institute or were surveys concerning issues about professional practices, not hypothetical questions about market values.

As experts and consultants, we certainly understand the reluctance of experts to respond to hypothetical questions in their area of expertise for a non-client, without compensation and with no full understanding of how the material will be used. When all of those factors are considered, we believe that the response rate is very satisfactory. Further, as noted above, the findings are so clear that a lower response rate has no effect on the substantive findings of the study.

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## SUMMARY OF SURVEY FINDINGS

### ***FINDINGS RELATED TO SEXUALLY ORIENTED BUSINESSES***

The following findings and conclusions can clearly be drawn from this survey:

- More than 87 percent of Florida appraisers surveyed believe that gentleman's clubs/strip clubs, adult media/video stores (retail only), video peep booth businesses and lingerie & adult novelties stores have a negative effect on the market value of a single-family home located within 500 feet of such a use;
- More than 83 percent believe that the negative effect on the market value of a single-family home due to the proximity of a sexually oriented business extends at least a quarter of a mile (1,320 feet) and more than 60 percent believe that it extends more than half a mile (2,620 feet);
- More than 76 percent believe that the concentration of two or more sexually oriented businesses increases the negative effect on market values of a single-family home;
- A majority (58 percent) of Florida appraisers surveyed believe that a video peep booth business, a gentleman's club/strip club or adult media/video store (retail only) will have a negative effect on the market value of a community shopping center located within 500 feet;
- About half (51 percent) of Florida appraisers believe that a lingerie & adult novelty store will have a negative effect on the market value of a community shopping center located within 500 feet;
- About 70 percent believe that the negative effect of a video peep booth business on the market value of a community shopping center extends at least a quarter of a mile (1,320 feet ) and more than 44 percent believe that it extends a half mile or more (2,620 feet);
- About 60 percent believe that the negative effect of a gentleman's club/strip club, adult media & video store (retail only) and a lingerie & adult novelties store on the market value of a community shopping center extends at least a quarter of a mile, and about 36 percent believe that it extends a half mile or more;
- Nearly 70 percent believe that the concentration of two or more gentleman's club/strip clubs increases the negative effect on the market value of a community shopping center;
- About 60 percent believe that the concentration of two or more video peep booth businesses, adult media & video stores (retail only), and/or lingerie & adult novelty stores increases the negative effect on market value of a community shopping center;
- More than 88 percent of Florida appraisers surveyed believe that having a retail business that is open after 11 p.m. may have a negative effect on the market value of a single-family home located within 500 feet (10 percent responded "always" and 78 percent responded "sometimes");
- About 95 percent of Florida appraisers believe that "bright, animated, or garish lighting or graphics" may or will increase the negative impact of a business that has negative effects on the market value of a single-family home (38 percent responded "always" and another 57 percent responded "sometimes");
- It should be noted that the findings related to lighting, signage and operating hours are not limited to sexually oriented businesses.

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## ***FINDINGS RELATED TO OTHER HIGH IMPACT USES***

### **Overview**

Several other high-impact uses – which might also be called “NIMBY”s (Not In My Back Yard) or “LULU”s (Locally Unwanted Land Uses) – were considered by respondents to have negative effects on market values of the same order of magnitude as the negative effects created by sexually oriented businesses.

The underlying purpose of this study was to determine whether sexually oriented businesses have measurable negative secondary effects that justify increased regulation for such businesses. Clearly the results of this study show substantial, measurable secondary effects which, in our opinion, justify special zoning regulation of such uses, including but not limited to separation distances from single-family residences. These findings would appear similarly to support special regulation of the other high-impact uses, including homeless shelters, lounges with live entertainment, bars, high voltage power lines and pawn shops. Although somewhat beyond the scope of the report that we were retained to perform, we believe that it is both appropriate and necessary to offer some specific comments on these land uses.

### **Legal Context**

The survey of appraisers that constitutes the major substance of this report provides clear evidence that each type of sex business listed on the survey will, in the opinion of a significant majority of Texas appraisers, have a negative effect on the market value of nearby single-family homes, and, to a somewhat lesser extent, on the market value of nearby community shopping centers. If elected officials and their advisors find that they “can reasonably believe” these results, then this report documents – or at least helps to document – a “substantial governmental interest” in regulating such sex businesses to protect the values of single-family homes and commercial properties. Because the survey included a broad variety of uses often considered NIMBYs (“Not In My Back Yard”) or LULUs (“Locally Unwanted Land Uses”), the results of the survey also show that certain other uses have similar negative secondary effects on the market value of single-family homes and community shopping centers. In adopting regulations to address the negative secondary effects of sex businesses, it is important that local governments at least consider the extent to which other uses identified by the appraisers should be subject to similar regulations.

The issue is important but not critical. Courts have held that the “underinclusiveness” that results from regulating some but not all uses that may reasonably be believed to have negative secondary effects does not make the adopted regulations unconstitutional. See, for example, this discussion from *Renton*, where the Supreme Court rejected an argument that the fact that the city chose to regulate only adult motion picture theaters and not other sexually oriented businesses should cause the ordinance to fall as unconstitutional:

Respondents contend that the Renton ordinance is "under-inclusive," in that it fails to regulate other kinds of adult businesses that are likely to produce secondary effects similar to those produced by adult theaters. On this record the contention must fail. There is no evidence that, at the time the Renton ordinance was enacted, any other adult business was located in, or was contemplating moving into, Renton. In fact, Resolution No. 2368, enacted in October 1980, states that "the City of Renton does not, at the present time, have any business whose primary purpose is the sale, rental, or showing of sexually explicit materials." App. 42. That Renton chose first to address the potential problems created by one particular kind of adult business in no way suggests that the city has "singled out" adult theaters for discriminatory treatment. We simply have no basis on this record for assuming that Renton will not, in the future, amend its



ordinance to include other kinds of adult businesses that have been shown to produce the same kinds of secondary effects as adult theaters.

475 U.S. 41, 52-53, 106 S. Ct. 925, 931-32, 89 L. Ed 2d 29, 41. Several years later, in a case raising the same issue but not involving a sex business, the Supreme Court addressed the broader policy implications of this argument and this issue:

[T]he First Amendment imposes not an "underinclusiveness" limitation but a "content discrimination" limitation upon a State's prohibition of proscribable speech. There is no problem whatever, for example, with a State's prohibiting obscenity (and other forms of proscribable expression) only in certain media or markets, for although that prohibition would be "underinclusive," it would not discriminate on the basis of content. Another valid basis for according differential treatment to even a content-defined subclass of proscribable speech is that the subclass happens to be associated with particular secondary effects of the speech, so that the regulation is justified without reference to the content of the speech.

*R.A.V. v. City of St. Paul*, 505 U.S. 377, 387–89, 112 S. Ct. 2538, 120 L. Ed. 2d 305 (1992), (citations and quotations omitted);

The Ninth Circuit applied this principle in a case involving the regulation of sex businesses. See *Center for Fair Pub. Policy v. Maricopa County*, 336 F.3d 1153 (9th Cir. Ariz. 2003), cert. den. 541 U.S. 973, 124 S. Ct. 1879, 158 L. Ed. 2d 468 (2004). There, the court dealt with an ordinance that established a 1:00 a.m. closing time for sexually oriented businesses but not for any other businesses:

The State "may choose to treat adult businesses differently from other businesses . . ." *Isbell v. Grand B Emporia, Inc.*, 258 F.3d 1108 at 1116 (9th Cir. 2001); see also *Young*, 427 U.S. at 70-71 ("[T]he State may legitimately use the content of these materials as the basis for placing them in a different classification from other motion pictures."). If this is true as a general proposition, then it must also be true as to the specific proposition that a state may single out sexually-oriented businesses to regulate their hours of operation. See *Ben Rich Trading, Inc.*, 126 F.3d at 163 ("[A] municipality may regulate hours of adult businesses differently than other businesses without raising a strong inference of discrimination based on content.").

336 F.3d at 1171, citing *Isbell* [full citation in extract] and *Ben Rich Trading, Inc. v. City of Vineland*, 126 F.3d 155 (3d Cir. 1997). The Eleventh Circuit has cited *Center for Fair Public Policy* with approval on another point in *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860, 874 (11<sup>th</sup> Circ. Fla. 2003).

### **High Voltage Power Lines**

Utilities in Florida are regulated by the Public Service Commission, and a Siting Board, staffed from the Department of Environmental Protection, exercises siting control over power plants and certain high voltage lines. Control over lines that carry less than 230 kv and that either do not cross county lines or are less than 15 miles in length is left to the counties. To the extent that such power lines already exist, presumably those who purchase real estate factor the effect of the lines into determining what price they are willing to pay for property. The issue of mitigating the impact of high voltage power lines on the value of single-family homes, shopping center and other pre-existing uses, the issue of proposed power lines is an issue that the County may wish to consider if it adopts a future siting ordinance for lines not regulated by the state Siting Board. The issues with power lines are very different from the issues with sexually oriented businesses, however, and there would be no reason to address the two issues through the same ordinance or even at the same time.

## Landfills

The location and operation of landfills is subject to a complex federal-state regulatory scheme for which the basic policies are established in the federal Resource Conservation and Recovery Act. See Chapter 403 of the Florida Statutes. Local control of the location of landfills is limited. To the extent that a landfill already exists, presumably those who purchase nearby real estate factor the effect of the lines into determining what price they are willing to pay for property. The establishment of future waste disposal sites is controlled in part through Chapter 403 of the Florida Statutes and further limited under the Palm Beach County Solid Waste Act<sup>9</sup>, which includes this provision:

- (1) It is unlawful to violate this act [article] or the rules duly adopted pursuant to it. After the effective date of this act [article], no person shall:
  - (a) Place or deposit any solid waste in or on the lands or waters located within the county except in a manner consistent with the countywide solid waste program.
  - (b) Burn solid waste except in a manner consistent with the countywide solid waste program.<sup>10</sup>

Through local and state permitting processes, officials of Palm Beach County have the opportunity to address the negative secondary effects of a proposed landfill on a case-by-case basis; such case-by-case review is not allowed for sexually oriented businesses because of the potential for censorship. Thus, the treatment of landfills is clearly distinguishable from that of sexually oriented businesses for land-use purposes.

## Bars and Lounges

Palm Beach County has recognized the potential negative secondary impacts of bars and lounges, both of which fall under the definition of “Cocktail Lounge” in the Palm Beach County Unified Land Development Code, which imposes these restrictions:

### **a. Separation**

A cocktail lounge shall not be located within 250 feet of a residential district and shall be separated a minimum of 750 feet from another cocktail lounge. The Zoning Director may ask for a signed/sealed survey certifying that another lounge does not exist within 750 feet off the subject lounge, a residential district is more than 250 feet from the subject lounge, or the subject lounge is more than 500 feet from a school as required by the State of Florida.

### **b. CN District**

A cocktail lounge shall not exceed 1,500 square feet of GFA.

### **c. CHO District**

A cocktail lounge shall be contained in an office, hotel or motel structure and shall be limited to a total floor area that does not exceed ten percent of the GFA of the entire structure, unless approved as a requested or Class A conditional use.

### **d. CG District and PDDs**

<sup>9</sup> Palm Beach County Code, Chapter 26, Article II.

<sup>10</sup> Palm Beach County Code §26-42.

A cocktail lounge shall meet the separation criteria above(??), unless approved as a requested or Class A conditional use.

**e. Outdoor Areas**

A cocktail lounge's outdoor seating and open lounge areas shall be setback a minimum of 100 feet from adjacent residential districts or uses.<sup>11</sup>

**Homeless Shelters**

There appear to be no specific provisions addressing homeless shelters as a land-use issue in Palm Beach County. Thus, any effort to establish a homeless shelter would require a public review process through which issues related to negative secondary effects could be addressed.

**Pawn Shops**

Palm Beach County has recognized the potential negative secondary impacts of pawnshops. The Palm Beach County Unified Land Development Code includes these specific restrictions on pawnshops:

**a. Separation**

Shall be located a minimum of 2,000 feet from another pawnshop.

**b. Setbacks**

Shall be setback a minimum of 150 feet from any property line abutting a residential use or an area designated as residential by a Local Plan.

**c. Hours of Operation**

Shall not be open to the public prior to 7:00 a.m. or later than 10:00 p.m. daily.<sup>12</sup>

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<sup>11</sup> Palm Beach County ULDC Article 4, Part B, Section 1, paragraph 67.

<sup>12</sup> Palm Beach County ULDC Article 4, Part B, Section 1, paragraph 97.

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## CONCLUSIONS

At the conclusion of this report, the question to answer is – “Does Palm Beach County impose additional controls on other land uses that may have negative secondary effects, or has it unfairly singled out sexually oriented businesses?”

The answer is clearly that it does impose additional land use controls on a variety of uses that have secondary effects, to the extent that it can do so under state law.

This survey of Florida MAI and SRA appraisers shows clearly that a significant majority of appraisers believe that all types of sexually oriented business have a negative impact on the market values of nearby single-family homes and community shopping centers. This same group of appraisers also confirmed that a number of other types of land uses can have significant negative effects on market values.

The County has some control over high voltage power lines; it has limited control over landfills but has clearly exercised what control it has. Appraisers confirmed that they believe bars, lounges, and pawn shops are subject to similar types of additional regulations as sexually oriented businesses. In Palm Beach County, the only problematic use that is not subject to specific additional regulations is a homeless shelter. Because such a use is not listed as a permitted or accessory use under the Unified Land Development Code, such a use could be approved only through a rezoning, variance or other discretionary review process. Through this process, the County could consider both the potential benefits and the potential negative secondary effects of such a shelter.

The controls imposed on pawn shops and bars and lounges are similar but not identical to those imposed on sexually oriented businesses. There is no Constitutional imperative that they be treated similarly – only that the County show that it is serious about addressing secondary effects of the respective land uses and the regulatory standards related to what secondary effects are being addressed.

There are good reasons why the regulations imposed on other high-impact uses should be different and not identical to those imposed on sexually oriented businesses. Although the impacts of all of these uses on the market values of single-family residences and commercial properties appear to be similar, these uses differ in other characteristics and, undoubtedly, in other impacts on the community. There are well-documented negative effects of sexually oriented businesses on crime rates, in part because such businesses attract “soft targets” and criminals who prey on them. Although patrons of bars and lounges may also be soft targets, they differ in other ways from sexually oriented businesses. One of the types of crime associates with sexually oriented businesses is prostitution and other sex crimes. There is little reason to believe that a typical bar, or a lounge with a live country and western band, would similarly attract people who are interested in commercial sex transactions.

We do not have the research to identify all the potential similarities and differences between sexually oriented businesses as a group and these other categories of uses – homeless shelters, pawn shops, lounges with live entertainment and bars. We do, however, have enough experience in dealing with problematic land uses to know that there are differences. Thus, it is entirely reasonable for elected officials to conclude that they should be treated differently. The plurality of the Supreme Court in a 2002 decision indicated that it is important to allow local governments a “reasonable opportunity to experiment with solutions’ to address the secondary effects of protected speech.”<sup>13</sup> The courts are far more deferential to local governments on land-use controls that do *not* potentially affect First

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<sup>13</sup> City of Los Angeles v. Alameda Books, 535 U.S. 425, 122 S. Ct. 1728, 1736, 152 L. Ed. 2d 670, 683-84 (U.S. 2002), remanded for further proceedings at 295 F.3d 1024 (9th Cir. 2002).

Amendment rights than they are on regulations of signs, religious uses, and sexually oriented businesses. It is thus entirely reasonable to extrapolate from the court's position regarding sex businesses that it would defer to the judgment of Palm Beach County elected officials that bars, lounges and pawn shops should be subject to a different type of additional regulation than are sex businesses.

# APPENDIX

## Impact of Land Use on Market Value [Survey Instrument]

**PURPOSE OF THE SURVEY:**

This survey asks MAI and SRA designated appraisers their views of the potential impact certain land uses may have on the **market value of single-family homes and community shopping centers.**

Your response to this survey in no way implies that you are undertaking an appraisal of a property. This survey is to ascertain views on the potential impact on market values created by the presence of certain types of land uses. We recognize that it may be difficult to respond to the questions related to specific distances; however, your best effort is appreciated.

**IMPORTANT: This survey instrument is structured to maintain confidentiality and anonymity of ALL responses. IF you would like a copy of the Survey Results, please provide your email address at the end of this questionnaire – email addresses will be kept separate from the survey tabulations.**

Thank You!

Shawn Wilson, MAI, Eric Damian Kelly, FAICP, Connie Cooper, FAICP

Nov. 13, 2007

| 1. Rate the following items as to their potential to have a <u>Negative</u> or <u>Positive</u> influence on market value. | Single-Family Home    |                       |                       |                       |                       |                       | Community Shopping Center |                       |                       |                       |                       |                       |
|---|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|---------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
|   | -2                    | -1                    | 0                     | +1                    | +2                    | No Opinion            | -2                        | -1                    | 0                     | +1                    | +2                    | No Opinion            |
| Tree-Lined Street   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>     | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Sidewalks   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>     | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Street Lights   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>     | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Well-Landscaped Premises  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>     | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Underground Power Lines   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>     | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Nearby Neighborhood Playground  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>     | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Nearby Elementary School  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>     | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Nearby Hospital   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>     | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

| <b>2. Single-Family Home:</b><br>If located <u>within 500 feet</u> , how would the listed land use <u>potentially</u> affect the <b>market value</b> of a Single-Family Home?<br><br><i>All responses should be based on your best professional opinion as an appraiser working in normalized or balanced market atmosphere</i> |                       |                       |                       |                       | <b>3. At what distance would there be <u>No Measurable Impact</u> on the Single-Family Home's market value?</b> |  |   | <b>4. Would a <u>concentration (2 or more uses within a couple of blocks)</u> have additional impact on the Single-Family Home's market value?</b> |                             |                       |
|---|-----------------------|-----------------------|-----------------------|-----------------------|---|--|---|--|-----------------------------|-----------------------|
|   | Positive Impact       | No Impact             | Negative Impact       | No Opinion            | Greater than 500 feet but less than 1/4 mile  | Greater than 5-Min. Walk (greater than 1/4 mile) | Greater than 10-Min. Walk (greater than 1/2 mile) | Yes <u>Additional Impact</u>   | No <u>Additional Impact</u> | No Opinion            |
| Adult Media & Video Store (retail sales only)   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>   | <input type="radio"/>                            | <input type="radio"/>                             | <input type="radio"/>  | <input type="radio"/>       | <input type="radio"/> |
| Bar (no live entertainment)   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>   | <input type="radio"/>                            | <input type="radio"/>                             | <input type="radio"/>  | <input type="radio"/>       | <input type="radio"/> |
| Coffee Shop   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>   | <input type="radio"/>                            | <input type="radio"/>                             | <input type="radio"/>  | <input type="radio"/>       | <input type="radio"/> |
| Convenience Store (beer/wine)   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>   | <input type="radio"/>                            | <input type="radio"/>                             | <input type="radio"/>  | <input type="radio"/>       | <input type="radio"/> |
| Elementary School   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>   | <input type="radio"/>                            | <input type="radio"/>                             | <input type="radio"/>  | <input type="radio"/>       | <input type="radio"/> |
| Gentleman's Club/Strip Club   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>   | <input type="radio"/>                            | <input type="radio"/>                             | <input type="radio"/>  | <input type="radio"/>       | <input type="radio"/> |
| Grocery Store   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>   | <input type="radio"/>                            | <input type="radio"/>                             | <input type="radio"/>  | <input type="radio"/>       | <input type="radio"/> |
| High Voltage Power Lines  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>   | <input type="radio"/>                            | <input type="radio"/>                             | <input type="radio"/>  | <input type="radio"/>       | <input type="radio"/> |
| Homeless Shelter  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>   | <input type="radio"/>                            | <input type="radio"/>                             | <input type="radio"/>  | <input type="radio"/>       | <input type="radio"/> |
| Landfill  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>   | <input type="radio"/>                            | <input type="radio"/>                             | <input type="radio"/>  | <input type="radio"/>       | <input type="radio"/> |
| Lingerie & Adult Novelties Store  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>   | <input type="radio"/>                            | <input type="radio"/>                             | <input type="radio"/>  | <input type="radio"/>       | <input type="radio"/> |
| Lounge (with live entertainment)  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>   | <input type="radio"/>                            | <input type="radio"/>                             | <input type="radio"/>  | <input type="radio"/>       | <input type="radio"/> |
| Neighborhood Playground   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>   | <input type="radio"/>                            | <input type="radio"/>                             | <input type="radio"/>  | <input type="radio"/>       | <input type="radio"/> |
| Pawn Shop   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>   | <input type="radio"/>                            | <input type="radio"/>                             | <input type="radio"/>  | <input type="radio"/>       | <input type="radio"/> |
| Package Liquor Store  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>   | <input type="radio"/>                            | <input type="radio"/>                             | <input type="radio"/>  | <input type="radio"/>       | <input type="radio"/> |
| Religious Institution   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>   | <input type="radio"/>                            | <input type="radio"/>                             | <input type="radio"/>  | <input type="radio"/>       | <input type="radio"/> |
| Video Peep Booth Business   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>   | <input type="radio"/>                            | <input type="radio"/>                             | <input type="radio"/>  | <input type="radio"/>       | <input type="radio"/> |



**You are halfway – Please keep going ... Your responses are important to us!**

| <b>5. Community Shopping Center:</b><br>If located <u>within 500 feet</u> , how would the listed land use <u>potentially</u> affect the Community Shopping Center's <b>market value</b> ?<br><br><i>All responses should be based on your best professional opinion as an appraiser working in normalized or balanced market atmosphere</i> |                       |                       |                       |                       | <b>6. At what distance would there be <u>No Measurable Impact</u> on the Community Shopping Center's market value?</b> |  |   | <b>7. Would a <u>concentration (2 or more uses within a couple of blocks)</u> have additional impact on the Community Shopping Center's market value?</b> |                             |                       |
|---|-----------------------|-----------------------|-----------------------|-----------------------|--|--|---|---|-----------------------------|-----------------------|
|   | Positive Impact       | No Impact             | Negative Impact       | No Opinion            | Greater than 500 feet but less than 1/4 mile   | Greater than 5-Min. Walk (greater than 1/4 mile) | Greater than 10-Min. Walk (greater than 1/2 mile) | Yes <u>Additional Impact</u>  | No <u>Additional Impact</u> | No Opinion            |
| Adult Media & Video Store (retail sales only)   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>  | <input type="radio"/>                            | <input type="radio"/>                             | <input type="radio"/>   | <input type="radio"/>       | <input type="radio"/> |
| Bar (no live entertainment)   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>  | <input type="radio"/>                            | <input type="radio"/>                             | <input type="radio"/>   | <input type="radio"/>       | <input type="radio"/> |
| Elementary School   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>  | <input type="radio"/>                            | <input type="radio"/>                             | <input type="radio"/>   | <input type="radio"/>       | <input type="radio"/> |
| Gentleman's Club/Strip Club   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>  | <input type="radio"/>                            | <input type="radio"/>                             | <input type="radio"/>   | <input type="radio"/>       | <input type="radio"/> |
| High Voltage Power Lines  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>  | <input type="radio"/>                            | <input type="radio"/>                             | <input type="radio"/>   | <input type="radio"/>       | <input type="radio"/> |
| Homeless Shelter  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>  | <input type="radio"/>                            | <input type="radio"/>                             | <input type="radio"/>   | <input type="radio"/>       | <input type="radio"/> |
| Landfill  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>  | <input type="radio"/>                            | <input type="radio"/>                             | <input type="radio"/>   | <input type="radio"/>       | <input type="radio"/> |
| Lingerie & Adult Novelties Store  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>  | <input type="radio"/>                            | <input type="radio"/>                             | <input type="radio"/>   | <input type="radio"/>       | <input type="radio"/> |
| Lounge (with live entertainment)  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>  | <input type="radio"/>                            | <input type="radio"/>                             | <input type="radio"/>   | <input type="radio"/>       | <input type="radio"/> |
| Neighborhood Playground   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>  | <input type="radio"/>                            | <input type="radio"/>                             | <input type="radio"/>   | <input type="radio"/>       | <input type="radio"/> |
| Pawn Shop   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>  | <input type="radio"/>                            | <input type="radio"/>                             | <input type="radio"/>   | <input type="radio"/>       | <input type="radio"/> |
| Package Liquor Store  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>  | <input type="radio"/>                            | <input type="radio"/>                             | <input type="radio"/>   | <input type="radio"/>       | <input type="radio"/> |
| Religious Institution   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>  | <input type="radio"/>                            | <input type="radio"/>                             | <input type="radio"/>   | <input type="radio"/>       | <input type="radio"/> |
| Video Peep Booth Business   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/>  | <input type="radio"/>                            | <input type="radio"/>                             | <input type="radio"/>   | <input type="radio"/>       | <input type="radio"/> |

|   | Always                | Sometimes             | Never                 | No Opinion            |
|---|-----------------------|-----------------------|-----------------------|-----------------------|
| 8. Would a retail business open <b>AFTER 11 PM</b> have a negative impact on the market value of <b>Single-Family Homes</b> located within a 5-minute walk (1500 feet)?                                     | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 9. If you indicated certain land uses had negative impacts on the market value of a <b>Single-Family Home</b> , would <b>bright, animated, or garish lighting or graphics</b> increase the negative impact? | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

|  |     |                       |    |                       |
|--|-----|-----------------------|----|-----------------------|
| 10. Do you believe that your personal, moral or ethical beliefs have affected your responses to any of the questions in this survey? | Yes | <input type="radio"/> | No | <input type="radio"/> |
|--|-----|-----------------------|----|-----------------------|

|   |             |                       |               |                       |               |                       |            |
|---|-------------|-----------------------|---------------|-----------------------|---------------|-----------------------|------------|
| 11. How many years of real estate appraisal experience do you have? |             |                       |               |                       |               |                       |            |
| <input type="radio"/>   | 1 – 9 years | <input type="radio"/> | 10 – 19 years | <input type="radio"/> | 20 – 29 years | <input type="radio"/> | 30 + years |

|   |   |                       |   |                       |  |                       |  |
|---|---|-----------------------|---|-----------------------|--|-----------------------|--|
| 12. Where Are Your General Locations of Practice? – <b>You May Select up to Two Locations</b> |   |                       |   |                       |  |                       |  |
| <input type="radio"/>   | Broward County  | <input type="radio"/> | Miami-Dade County   | <input type="radio"/> | Palm Beach County  | <input type="radio"/> | Treasure Coast - Indian River, Martin & St. Lucie Counties |
| <input type="radio"/>   | NE Florida - Duval, Nassau, St. Johns, Baker & Clay Counties                      | <input type="radio"/> | Central Florida - Seminole, Osceola, Lake & Orange Counties | <input type="radio"/> | Sarasota-Bradenton - Manatee & Sarasota Counties                         | <input type="radio"/> | Other Location   |
| <input type="radio"/>   | NW Florida - Escambia, Santa Rosa, Okaloosa, Walton, Bay, Leon & Gadsden Counties | <input type="radio"/> | Lakeland-Winter Haven (Polk County)                         | <input type="radio"/> | SW Florida - Charlotte, Lee & Collier Counties                           |                       |  |
| <input type="radio"/>   | N. Central Florida – Alachua, Marion & Gilchrist Counties                         | <input type="radio"/> | E. Central Florida - Volusia & Brevard Counties             | <input type="radio"/> | Tampa-St. Petersburg - Hillsborough, Pasco, Hernando & Pinellas Counties |                       |  |

|  |                      |
|--|----------------------|
| 13. In what Zip Code is your PRIMARY office? | <input type="text"/> |
|--|----------------------|

**14. Comments?** Provide other comments regarding the potential impact land uses may have on the market value of a single-family home or community shopping center. (Maximum 200 words)

Type answer here.

**Survey Results:**

Survey tabulation should be completed by the end of the year. IF you would like a copy of the results, please provide your email address below. Again, your responses to this survey are kept confidential. If you have provided an email address, the email addresses will be entered into a separate data base then deleted from the completed survey.

Survey Results? Please provide email address.

***We Thank YOU for taking the time to respond to this very important survey of land uses that have the potential to impact market values!***

Submit Reset

**Questions or Comments? Email Us ...**

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