



NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

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Press Release

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**COURT UPHOLDS CONSTITUTIONAL CHALLENGES
TO CITY'S CABARET LAWS,
ENABLING CITY TO CONTINUE TO PROTECT
QUALITY OF LIFE IN RESIDENTIAL AREAS**

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New York, February 22, 2007 – In a confirmation of the City's efforts to protect residential communities from potential noise and safety hazards caused by some cabarets, the Appellate Division, First Department in *John Festa, et al. v. New York City Department of Consumer Affairs, et al.*, today upheld the lower court's decision that recreational dancing is not a form of expression protected by the federal or state constitutions. The ruling affirmed the enforcement of City licensing and zoning requirements for cabarets — establishments that sell food or drink and have recreational dancing — that limit where these establishments may be located.

The individual plaintiffs claimed they wanted to be able to dance in any bar or restaurant of their choice, at any time. The Court declared that the City's measures are rationally related to the governmental objectives of protecting its residential communities from "potentially intrusive noise, congestion and other hazards, and to protect local retail development."

"We welcome the Court's decision, which recognizes City's authority to protect its residents from excessive noise and other disruptions, and to make appropriate choices in seeking to reconcile the competing needs and desires of its citizens," said Norman Corenthal, Senior Counsel with the New York City Law Department's Appeals Division, who argued the case on appeal. The case was litigated at the trial level by Ave Maria Brennan, Senior Counsel with the Department's Administrative Law Division.

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