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OFFICE OF THE CORPORATION COUNSEL

Michael A. Cardozo, *Corporation Counsel*

Press Release

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*For Immediate Release*

**APPELLATE COURT ORDERS THE WALL STREET SAUNA CLOSED  
BASED ON REPEATED OBSERVATIONS  
OF UNSAFE SEXUAL ACTIVITY**

***UNANIMOUS DECISION SUPPORTS CITY'S EFFORTS TO CURB A PUBLIC HEALTH PROBLEM AFTER  
INVESTIGATORS OBSERVED REPEATED INCIDENTS OF PROHIBITED SEXUAL ACTIVITY***

Contact: Kate O'Brien Ahlers, Communications Director, (212) 788-0400, [kahlers@law.nyc.gov](mailto:kahlers@law.nyc.gov)

New York, Thurs., July 8, 2004 – In *City of New York v. Wall Street Sauna, Inc.*, the Appellate Division, First Department today unanimously ordered the Wall Street Sauna, located at Broadway and Maiden Lane in lower Manhattan, closed based on repeated observations of unsafe sexual activity.

On Feb. 2, 2004, the New York City Department of Health and Mental Hygiene closed the Wall Street Sauna (with the permission of the New York State Supreme Court) as part of its ongoing effort to combat AIDS and other sexually transmitted diseases. Investigators observed high-risk sexual activity at the sauna starting in June 2003. Some of this activity was also observed after a warning letter was sent to the owner of the establishment in September 2003.

On Feb. 11, 2004, the New York Supreme Court authorized the Wall Street Sauna to reopen. The legal justification was that the sauna's owners promised that new management would stop the illicit activity. However, a Health investigator in April 2004 observed a new instance of high-risk sexual activity. After a hearing in May 2004 based on this additional observation of unsafe sexual activity, the Supreme Court issued a second order that only closed the upper floor of the establishment.

Today, the Appellate Division, First Department, by a vote of 5-0, reversed the Feb. 11th decision of the New York Supreme Court and authorized the City to close the sauna in its entirety.

The New York City Department of Health and Mental Hygiene's (DOHMH) efforts to close the Wall Street Sauna are part of a larger, ongoing effort by DOHMH to combat AIDS and other sexually transmitted diseases. While outreach and education are the most important components of the City's efforts to combat AIDS and other sexually transmitted diseases, the DOHMH's efforts to close the establishment (based on the State's Sanitary Code and the City's Nuisance Abatement Law) only began after DOHMH warned the owner about the repeated observations of high-risk sexual activity at the facility. Nonetheless, it failed to stop the prohibited conduct.

The Appellate Division was not persuaded by the Wall Street Sauna's assertions that it had hired new management and security guards, and noted that the "record of proceedings on the original motion establish to our satisfaction that high-risk conduct was so pervasive at the [Wall Street Sauna] that the new management's promises cannot be deemed a sufficient safeguard against their continuation." And even though the Supreme Court's in May had ordered part of the facility closed based on subsequent observations, the Appellate Division noted that a limited closing order "would probably cause the high-risk conduct to migrate to the portion of the premises permitted to remain open, especially in view of the

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demonstrated unreliability of the Wall Street Sauna's prior representations.”

The City was represented in this action by the New York City Law Department. In the Supreme Court, Assistant Corporation Counsel Mark Muschenheim of the Administrative Law Division argued the case. In the Appellate Division, Muschenheim and Assistant Corporation Counsel John Hogrogian of the Appeals Division argued the case. “The total disregard for the public health exhibited by the Wall Street Sauna required a response that effectively puts a stop to this dangerous activity,” Muschenheim noted. “The closure of the entire facility represents an important win for New York’s efforts to protect the health of its citizens,” Hogrogian added.

The Law Department has informed the sauna's counsel, Bob Silversmith of Silversmith & Veraja, and Steven Louros (a sole practitioner), via legal letter of the court's decision requiring the closing.

The New York City Law Department is one of the oldest, largest and most dynamic law offices in the world, ranking among the top three largest law offices in New York City and the top three largest public law offices in the country. Tracing its roots back to the 1600's, the Department's 650-plus lawyers handle more than 90,000 cases and transactions each year in 17 separate legal divisions. The Corporation Counsel heads the Law Department and acts as legal counsel for the Mayor, elected officials, the City and all its agencies. The Department's attorneys represent the City on a vast array of civil litigation, legislative and legal issues and in the criminal prosecution of juveniles. Its web site can be accessed through the City government home page at [www.nyc.gov](http://www.nyc.gov) or via direct link at [www.nyc.gov/html/law/home.html](http://www.nyc.gov/html/law/home.html).

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