

The Society for the Promotion of Community Standards Inc
P.O. Box 13-683 Johnsonville 6440

Submission to Upper Hutt City Council

Re: Proposed Changes to By-Laws Relating to Prostitution

8 December 2008

Note: The Society wishes to address the Council in an oral submission on this matter.

The Society is an incorporated and registered as a charity with the Charities Commission (Reg. no. CC20268) under the Charities Act 2005. Its objectives are set out under section 2 of its constitution and they are:

- (a) To encourage self-respect and the dignity of the human person, made in the image of God.
- (b) To promote recognition of the sanctity of human life and its preservation in all stages.
- (c) To promote wholesome personal values, including strong family life and the benefits of lasting marriage as the foundation for stable communities.
- (d) To focus attention on the harmful nature and consequences of sexual promiscuity, obscenity, pornography and violence.
- (e) To foster public awareness of the benefits to social, economic and moral welfare, of community standards, and to encourage constructive debate and discussion in this area.
- (f) To support responsible freedom of expression which does not injure the public good by degrading, dehumanising or demeaning individuals or classes of people.

The Society has a good number of members based in Upper Hutt, including current executive member Tony McCall and former president Rev. Gordon Dempsey JP. Its membership (by donation/subscription) is nationwide and it has operated since for over 25 years. Its website is: www.spcs.org.nz

The Society strongly opposed the Prostitution Reform Bill when it came before the Justice and Electoral Select Committee following its first reading in parliament in October 2000. It made both written and oral submissions (2) to the committee and was one of the leading opponents of the bill. A number of Society executive members addressed the Upper Hutt City Council when it first embarked on a consultation process that led to the current by-laws governing the operation of brothels in the district. The Society strongly supported Mayor Wayne Guppy JP and his councillors who worked towards restrictions being imposed to limit the operation of brothels within the CBD and residential areas. The Society, having carefully examined the

latest proposals relating to changes to these bylaws affecting brothel placement and operation, strongly opposes any changes to the existing by-laws. It points out that since they were adopted as law there have been no applications by those wanting brothels in the CBD, as allowed under the Local Government Act, to have these bylaws challenged on the basis that they are unreasonable.

In the Society's view the Council should accept that it has the strong support of the majority of Upper Hutt residents in retaining its current bylaws.

Many businesses which are excluded to areas outside the CBD because of public nuisance factors etc. would love to have a prominent position within this CBD zone to promote their trade. The National Co-ordinator of the New Zealand NZ Prostitutes' Collective (NZPC) Ms Catherine Healy and her supporters are determined to have prostitution normalised in this country and treated like any other business by Upper Hutt City Councillors. NZPC demands that territorial authorities like the UHCC create bylaws that allow for brothels to operate within the CBD even though the public nuisance factors etc associated with such businesses have been recognised in the Prostitution Reform Act 2003 (PRA) and authority has been vested in councils using the Resource Management Act and Local Government Act, to enact bylaws limiting such operations.

The PRA itself imposes absolute restrictions under the Immigration Act on those coming to New Zealand to invest in or be engaged in prostitution industry. It is thoroughly consistent with this approach for Councils to exercise their jurisdictional rights to place restrictions on the trade where public nuisance factors, health and safety issues etc can be demonstrated (see below).

It is a violation of the rights of Upper Hutt parents and caregivers to have to re-route their children and young persons when they leave home to attend schools, youth groups and church activities, so as to avoid passing by brothels operating in the CBD and residential areas. The Justice and Electoral select committee was presented with considerable evidence highlighting the public nuisance factors associated with such brothels operating near churches and schools (discarded condoms, criminal activity etc).

Under s 12 of the PRA, territorial authorities are given powers to regulate signage relating to brothels and sexual services within the CBD and elsewhere in the district.

12 Bylaws controlling signage advertising commercial sexual services

- *(1) A territorial authority may make bylaws for its district that prohibit or regulate signage that is in, or is visible from, a public place, and that advertises commercial sexual services.*

(2) Bylaws may be made under this section only if the territorial authority is satisfied that the bylaw is necessary to prevent the public display of signage that—

- *(a) is likely to cause a nuisance or serious offence to ordinary members of the public using the area; or*
- *(b) is incompatible with the existing character or use of that area.*

(3) Bylaws made under this section may prohibit or regulate signage in any terms, including (without limitation) by imposing restrictions on the content, form, or amount of signage on display.

(4) Parts 8 and 9 of the [Local Government Act 2002](#) (which are about, among other things, the enforcement of bylaws and penalties for their breach) apply to a bylaw made under this section as if the bylaw had been made under section 145 of that Act.

This empowerment entrusted to Councils under the Act recognises the public offence aspect associated with an ‘industry’ that is morally abhorrent to a significant number New Zealanders (56% of the 221 submissions to the select committee on the PR Bill, opposed it). No reasonable case has been presented by the prostitution lobby showing why the current bylaws in Upper Hutt are not justified. Instead of using the legal avenues allowed for under the Local Government Act the prostitution lobby has done nothing.

The Resource Management Act empowers the Council to make decisions on brothel placements etc. that recognises the public offence aspect associated with an ‘industry’ that is morally abhorrent to a significant number New Zealand.

Prostitution Reform Act 2003 No 28 (as at 03 September 2007), Public Act

<http://www.legislation.govt.nz/act/public/2003/0028/latest/DLM197864.html>

Resource consents in relation to businesses of prostitution

- (1) *When considering an application for a resource consent under the [Resource Management Act 1991](#) for a land use relating to a business of prostitution, a territorial authority must have regard to whether the business of prostitution—*
 - (a) *is likely to cause a nuisance or serious offence to ordinary members of the public using the area in which the land is situated; or*
 - (b) *is incompatible with the existing character or use of the area in which the land is situated.*

(2) *Having considered the matters in subsection (1)(a) and (b) as well as the matters it is required to consider under the [Resource Management Act 1991](#), the territorial authority may, in accordance with sections 104A to 104D of that Act, grant or refuse to grant a resource consent, or, in accordance with section 108 of that Act, impose conditions on any resource consent granted.*

(3) *Subsection (1) does not limit or affect the operation of the [Resource Management Act 1991](#) in any way, and it may be overridden, with respect to particular areas within a district, by the provisions of a district plan or proposed district plan.*

13 Procedure for making bylaws

- (1) *A bylaw made under section 12 must be made in the same manner in all respects as if it were a bylaw made under the [Local Government Act 2002](#).*
- (2) *Despite subsection (1), a bylaw may be made under section 12 even if, contrary to section 155(3) of the [Local Government Act 2002](#), it is inconsistent with the [New Zealand Bill of Rights Act 1990](#).*

14 Bylaws regulating location of brothels

- Without limiting section [145](#) of the [Local Government Act 2002](#), a territorial authority may make bylaws for its district under section [146](#) of that Act for the purpose of regulating the location of brothels.

The PRA recognises that councils have a right to enact bylaws that safeguard the rights of the general public: protecting them from nuisance and maintaining public health and safety. It is an indisputable fact the prostitution is linked to criminal activity including drug dealing, gangs, and many forms of vice. It is exploitative of women and breeds an environment that destroys families and relationships.

Local Government Act 2002 No 84 (as at 01 November 2008), Public Act 146
Specific bylaw-making powers of territorial authorities

- *145 General bylaw-making power for territorial authorities*
 - *A territorial authority may make bylaws for its district for 1 or more of the following purposes:*
 - ***(a) protecting the public from nuisance:***
 - ***(b) protecting, promoting, and maintaining public health and safety:***
 - ***(c) minimising the potential for offensive behaviour in public places.***

Without limiting section [145](#), a territorial authority may make bylaws for its district for the purposes—

- *(a) of regulating 1 or more of the following:*
 - *(i) on-site wastewater disposal systems:*
 - *(ii) waste management:*
 - *(iii) trade wastes:*
 - *(iv) solid wastes:*
 - *(v) keeping of animals, bees, and poultry:*
 - ***(vi) trading in public places:***

The Society recommends that the Council to take a principled stand against the tiny minority of individuals whose motivation to enhance, normalise and promote their sordid industry – runs counter to the public good. The current bylaws have worked well. Those wanting to operate brothels can purchase land in zoned areas and/or make application under the RMA to operate in areas that comply with current bylaws.

By way of analogy In the past Councils had hydatid dosing strips confined to areas within the district that took account of public nuisance factors (barking dogs, excrement etc), health concerns (transmitted diseases, faecal contamination. etc.). The prostitution ‘industry’ as we informed the Justice and Electoral select committee is like a public cancer. Its operations can be compared to a hydatid-dosing strip in terms of public nuisance etc. It should not be encouraged but in our society as a Main Street

activity – it is a necessary evil that is unfortunately tolerated. The PRA recognises that councils have every right to severely curtail prostitution activities just as the Immigration department is likewise empowered and to take into account the views of the majority of citizens who oppose it.

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