

Laws on the Table

Lexington Restaurants and their smoking customers have their day in court

By Matt O'Neil PREP Magazine Correspondent

Two Fayette County establishments found in violation of the county's indoor smoking ban had their days in court in December, with the bar owners faring well so far.

On December 2, the jury found Monte McQuinn, owner of the Beaumont Courtyard Bar and Grille, not guilty on the two citations he was issued August 18 and September 15. Though Health Department workers testified that ashtrays were out and patrons were smoking, they could not say if McQuinn, believed to have been present on both occasions, had asked his customers to stop smoking. No customers were called to testify. To find an owner guilty, the county must prove that the establishment failed to enforce the ordinance.

Reaction was muted on both sides after the one-day trial, the first of its kind since the smoking ban went into effect last April. "Every case is different," defense attorney Tucker Richardson told the Lexington Herald-Leader after the verdict. "Just because someone wins a DUI case doesn't mean that everyone is going to go out and drink and drive."

Indeed, 15 days later, the county had its first conviction. The owner of the Curb on Old Paris Pike was found guilty of personally smoking behind the bar. The jury returned "not guilty" verdicts on two other Curb citations, because, like in the Beaumont Courtyard cases, it was not clear if the owner had asked his patrons to refrain from smoking. Both the Curb and Beaumont Courtyard had "No Smoking" signs posted.

Larry Dean, president of the Lexington-Fayette County Food and Beverage Association said after the Beaumont Courtyard verdict, "It's just not a well-thought out ordinance....You just can't ask us to be the police department. We're private citizens."

As of mid-December, 149 smoking ban citations had been issued, and more cases are headed to trial. The Fayette County Urban County Council has also been considering an ordinance to mandate training for employees of establishments that sell alcohol. Called the Responsible Server Training Ordinance,

its, "stated purpose ...is to enhance compliance with the laws regulating the sale of alcoholic beverages, including preventing sales to minors and intoxicated persons," according to a Department of Law memo released in early September.

The scope and design of the ordinance was the subject of discussion over the summer and fall of 2004. Among the issues under consideration were which employees — managers and/or others — would be required to be licensed to serve alcohol and who would cover the cost of that training. The Department of Law memo indicated that the intent is to focus on "retail" servers (i.e., employees of bars and restaurants as opposed to those at package stores).

If there is further discussion on the ordinance, that issue will have to be worked out, as "there must be a rational relationship between the goal or purpose of the ordinance and the means used to achieve that goal." However, according to Paul Schoninger, a council office research analyst, the ordinance is now in a subcommittee chaired by Councilman Mike Scanlon, and no further action is expected in the near future. -PREP

What is this?



GREASE IN THE SEWER!!!
FROM.... Poorly Maintained
Grease Traps at Restaurants!!
What can YOU do to keep GREASE
OUT of the sewer?

- **Never pour grease or oily liquids such as salad dressing down sink/floor drains, or into toilets or storm drains**
- **Dispose of grease and food scraps into trash receptacles or recycle when that option is available**
- **Install baskets/strainers in sink drains to catch food scraps and other solids**
- **Insure that all containers containing grease, oil or meat products are always tightly sealed**
- **Clean equipment in a designated indoor area or a covered outdoor area with a drain connected to grease trap**
- **Inspect and maintain your grease trap on a regular basis**
- **Never clean equipment in any area, where the cleanup water can flow to a street, gutter, storm drain or creek**
- **Do not sweep or blow yard waste into the street or gutters.**
- **Dispose of grass clippings in a compost or the trash**

