

Aptos Fire Officials Ponder Candle Question

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Can the Aptos Fire District afford to allow area churches to hold candlelight services at Christmas?

District directors are not anxious to repeat another First Amendment battle with area congregations as resulted last year when firemen cited the Christ Lutheran Church for violating the fire code by using hand-held candles during its Christmas Eve service.

Chief Nick Baumgartner and district directors are approaching the subject cautiously as the Christmas season nears, but they heard Tuesday night that both the chief and the district could be held responsible if a parishioner is burned during a candlelight service they allow to proceed.

District counsel Bill Card explained the situation in light of a jury's decision against the city of Marysville and its fire chief last year.

The jury ordered the city and then fire chief Bob Miller to pay \$128,000 in damages to two victims of a fire in a 50-year-old, converted hotel that was in violation of the fire code.

The jury ruled that two occupants, Arthur Widmar and Vinnie Edwards, were injured because fire on the third floor of the building was allowed to travel to their rooms on the fourth floor because of the lack of one-hour fire walls, enclosed stairwells and self-closing doors.

Edwards suffered a severely-fractured elbow when she jumped to the ground and Widmar suffered third and fourth-degree burns to 35 percent of his body when he stayed in his room until rescued by Marysville firemen.

The jury found that the city and the fire

chief were negligent for failing to properly inspect the building, failing to see that the code violations were abated and failing to warn the occupants of the known fire danger.

The building was inspected, but not as many times a year as the code specified. Nonetheless, the jury decided that the city and chief knew of the fire dangers and did not force the property owner to make the corrections.

It was pointed out during the trial that the district attorney's office refused to enforce code citations against that or other influential property owners in the city.

The jury's decision struck down the city's defense that the Government Code (sections 818.2 and 818.4) says that agencies, such as fire departments, are not liable for failure to enforce the law.

Another interesting consequence of the Marysville decision was that notifying a property owner of the fire danger is not enough. All occupants or likely occupants of such a building must also be warned.

That consequence could mean that the Aptos district, if it decides to enforce its candle code, must do more than just notify the individual church pastors and boards of directors.

Its likely effect would be to force firemen to go out to the churches on Christmas Eve for the kind of confrontation the district is hoping to avoid.

Directors made no decisions Tuesday night, but decided that the Marysville verdict calls for them to take a look at all of the Aptos Fire Code provisions.

The major problem, they agreed, was how to enforce all of the code provisions, which have been responsible for lowering the district's fire rating, with lack of sufficient manpower?