

**UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT**

VIP OF BERLIN, LLC,  
Plaintiff,

v.

TOWN OF BERLIN, HERMAN  
MIDDLEBROOKS, JR., in his official  
capacity as Town Manager of the Town of  
Berlin, and DENISE McNAIR, in her official  
capacity as the Town Manager of the Town  
of Berlin,  
Defendants.

CIVIL ACTION NO.  
3:06cv1811 (SRU)

**PRELIMINARY INJUNCTION ORDER**

For the reasons set forth in the accompanying Ruling on Motion for Preliminary Injunction, VIP of Berlin, LLC (“VIP”) has met its burden of proving irreparable harm and a clear and substantial likelihood of success on the merits that Berlin’s SOB ordinance is void for vagueness as applied to VIP’s March 26, 2009 application for a certificate of zoning compliance. Therefore, a preliminary injunction preventing Berlin from enforcing the provisions of its SOB ordinance against VIP’s proposed business plan is necessary pending determination of the merits of VIP’s vagueness challenge.

Therefore:

**IT IS ORDERED** that the defendants, Town of Berlin, Denis McNair, and their agents, officers, directors, trustees, employees, and anyone acting in concert with them who receives actual notice of this order, are hereby enjoined from enforcing the definition of “adult oriented store” contained in Berlin Code of Ordinances § 14-242 to deny VIP a certificate of zoning compliance based on VIP’s proposed business plan and inventory, as submitted to the Berlin zoning officer on March 26, 2009.

This preliminary injunction shall remain in full force and effect until the final judgment in this action or until further order of the Court, whichever occurs first. VIP shall post a bond of \$25,000 within 10 days of entry of this order.

It is so ordered.

Dated at Bridgeport, Connecticut, this 2nd day of July 2009.

/s/ Stefan R. Underhill  
Stefan R. Underhill  
United States District Judge