

CITY OF MADISON, WISCONSIN

REPORT OF: **City Attorney**
TITLE:
AUTHOR: **Marci Paulsen
Assistant City Attorney**
DATED: **July 14, 2010**

PRESENTED _____
REFERRED _____
REREFERRED _____
REPORTED BACK _____
ADOPTED _____ POF **XX**
RULES SUSPENDED _____
ID NUMBER _____


TO THE MAYOR AND COMMON COUNCIL:

RE: Legistar No. 18068

The Office of the City Attorney has reviewed the Madison Police Department (MPD) Police Report #10-75494 regarding the March 22, 2010, incident involving John W. Moore at Einstein's Bagels located at 652 State Street. An MPD Officer was dispatched to Einstein's Bagels on a complaint regarding Mr. Moore. The manager at Einstein's Bagels indicated that she had previously warned Mr. Moore that he is not permitted to sleep in their establishment and in the date in question Mr. Moore had once again fallen asleep inside Einstein's Bagels. The manager requested that the MPD Officer escort Mr. Moore out of the establishment and be informed that he was no longer permitted to enter Einstein's Bagels and that if he returned to Einstein's Bagels he would be issued a citation for violating the Unlawful Trespass ordinance.

Mr. Moore objects to what occurred and indicates that it was illegal. However, Einstein's Bagels is a private entity and as such has the legal right to ban anyone from its establishment that it believes is creating a disturbance. The MPD officer was not required to obtain a court order prior to escorting Mr. Moore from the establishment and informing him of the trespass ban and if Mr. Moore does return to Einstein's Bagels after being provided such notice it is within the power of MPD to issue him an Unlawful Trespass citation. Mr. Moore requests that the Common Council prohibit MPD from enforcing said ban, however, this is not within the authority or ability of the Common Council.

I, therefore, recommend that this matter be placed on file.



Marci Paulsen
Assistant City Attorney

MP:sob