

Sunshine Law divides trailer park



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John Vander Molen of Trailer Estates. BRIAN BLANCO/bblanco@bradenton.com

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Trailer Estates residents say their idyllic retirement neighborhood on Sarasota Bay in recent years has become something of a rumor-charged, community divided. And though most of them moved to Florida for the weather, they find themselves embroiled in a battle over the Sunshine.

Much of the rancor and resentment at the 55-and-older community is probably not much more than a snarky dispute you'd expect in community where almost 1,300 trailers are packed into less than one square mile. Golf carts and pedestrians outnumber cars on streets by at about 4-to-1. Word and rumor spread faster than a pair of old legs - so much that some residents turn up their television sets not to hear but to avoid being heard.

The Legislature turned the community into a special taxing district in 1969 so that residents could pay an annual fee for the upkeep of roads, recreational facilities and other amenities. The fee for the average homeowner is less than \$800 a year and most agree that's reasonable for the perks they receive.

For the past two years a battle has been simmering between a majority bloc of the nine-member board of trustees and a group of vocal residents who say the board is operating more like a homeowners' association than an elected government that oversees an annual budget of almost \$1 million. They're particularly concerned with a number of board actions and procedures that appear dubious in light of the state's Sunshine Law, which oversees all elected officials and public business.

The questionable practices came to light about two years ago when two sisters - one angry that a set of fees was raised without notice, the other because she was billed for a weed treatment but never shown the park's policy on lawn maintenance - began to raise a stink. Sharon Denson and Mary Lou Smith say once they started questioning the Board of Trustees' practices, life around the peaceful park turned turbulent.

"We are not so fortunate as to have a government that respects the residents' rights to access their government," said Denson, who has kept a meticulous record of the past two years' problems. "In fact, if you dare to ask, you are marked as a dissident and have your reputation destroyed."

"I see a lack of understanding of the law and no motivation to get any information, coupled with an attitude that the people are not entitled to know the business of the park," said Smith, a part-time resident who is considering a lawsuit against the board. "It's not an attitude of how can I help you in accessing the records. It's an attitude of how can I stop you."

A reporter's requests for public records were met promptly last week, but some park residents say they've had to sign in and schedule appointments to browse records and are sometimes charged clerical fees after only 15 minutes. The

park's records policy allows charges for clerical assistance beyond 15 minutes, up to \$19.50 per hour, a rate Florida's First Amendment Foundation said is too high.

John Vander Molen, the board's first vice chair and de facto leader, said park leaders are doing their best to abide by the Sunshine Law, especially since extra guidance from local attorneys has raised the park's annual legal fees from \$10,000 to \$30,000. He admits that Sunshine compliance could be better, but that board members have done nothing dishonest.

"We weren't intentionally operating outside the Sunshine," Vander Molen said.

The handling of public records isn't the only questionable practice of the board. Sometimes it's also what's in them. The mountain of records Denson has collected over the years includes dozens of memos, requests and directives among board members - conversations that should have taken place during public meetings.

A board member for a total of 15 years, Vander Molen knows the history of the park inside out and is directly involved in several committees and projects throughout Trailer Estates. Correspondence from outside the park often sent only to Vander Molen or to the board chair with notice of copy to Vander Molen.

Vander Molen believes the board is doing things within the law - particularly since adopting a three-page public records policy in January. A fourth page with a fee schedule was added in March without the entire board's consent, probably a Sunshine violation.

"Did it need voting on? That's up for grabs, I guess," he said. "Never in my history with the park was anything intentionally and with malice done to hurt the park, to hurt our property owners, to do anything other than run a good park."

He added that 99 percent of residents in the park have no problem with the way things are run. He said a small minority is causing "the distractions, innuendos and accusations" that have no merit.

But the complaints extend beyond the sisters. Several other residents privately complained about the board, but refused to publicly air their grievances for fear of retaliation. A few were willing to speak on the record.

William Secraw, a former county-elected official in Wisconsin, said red flags "pop up all over" Trailer Estates government. He said the board used the previous year's budget numbers instead of actual amounts spent when preparing last year's budget. He said he also encountered roadblocks trying to track down receipts detailing the park's legal fees.

"My intent was not to nail anybody. I wanted to try to get them to conduct themselves in a more open manner and ethically," Secraw said. "I got on the bad side of the board and I've been vilified for doing that. They think it's a volunteer thing, but they're still elected officials and take the oath of office."

"I knew there were things amiss," said Tom Featheringill, a board member in 2007. He added that he heard fellow board members discuss official business outside meetings. "If that's not a Sunshine violation, I don't know what is."

Vander Molen said communication among board members on official business outside meetings probably exists but defended the Sunshine violation.

"Show me any government in the world where that doesn't happen," he said. "Most of it is an explanation of the issues. No votes were influenced."

But maybe the most troubling admission was that not all trustees have a clear understanding of the Sunshine Law. A tentatively scheduled in-service on the Sunshine Law was cancelled in January, Vander Molen said, because there were no new members elected to the board a month before

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"Are we intimately familiar with (the Sunshine Law)? I don't know anyone who is," Vander Molen said. "We are very cognizant that there is a Sunshine Law and we do our darndest to comply with what has to be done."

Trustees probably have a better understanding of Sunshine now than ever before, thanks largely to the pricey legal advice that the sisters and their supporters say is an unnecessary expense. They say any confusion could be cleared up without spending a penny if the board would cooperate better with residents and by knowing the Sunshine Law. What's more, Vander Molen isn't convinced that the compliance has been worth the expense.

"We're making adjustments, we're fine-tuning," he said. "We're not any better off for what we've done. We're worse off. We spend a lot of money doing what they're saying has to be done, mostly in lawyer fees."

Sunshine complaints from special taxing district and community development district residents are among the most common at the First Amendment Foundation. Director Adria Harper said much of the time elected officials of special districts either don't know about Florida's broad open government rules, or choose to run things like a private company that's not bound by the Sunshine. But that doesn't make it right.

"Though they undoubtedly are subject to Sunshine Laws, these districts are often very poor at complying with the law," Harper said. "They appear to think that either the open government laws don't apply to them at all, or that they can more easily get away with non-compliance than can traditional governments."

The purpose of the Sunshine Law is to provide a window into public business for citizens, allowing them to oversee and participate in government.

"There has to be some sort of acknowledgement that they're functioning as a government," Harper said.

The state does not have general oversight over special districts, according to the Florida Department of Community Affairs. But there are ways to get information from an uncooperative government other than with litigation. The state attorney general's Web site, www.myfloridalegal.com, has an entire section devoted to open government questions and mediation. Most citizens' records requests are met if the attorney general intervenes, but the office can also explain what meetings or records are not subject to the Sunshine.

Harper suggested frustrated citizens turn to the local newspaper to "make a stink." It's also important to keep a running, written record of your efforts to obtain records.

"Any attempt to thwart public access is problematic," Harper said, referring to officials skirting the Sunshine. "Ask, 'Do you have an exemption that allows you to deny me access to the record? If so, can you provide it in writing?'"