



LEWIS, LONGMAN & WALKER, P.A.
ATTORNEYS AT LAW

Reply to: Bradenton

January 8, 2009

Via Hand Delivery

Mark P. Barnebey, Esquire
Kirk Pinkerton
1301 6th Avenue West
Suite 401
Bradenton, Florida 34205-7435

Via U.S. First Class Mail

TJ Miller, Records Custodian
Trailer Estates Recreation District
1903 69th Avenue West
Bradenton, FL 34207

RE: MARY LOU SMITH and SHARON DENSON vs.
TRAILER ESTATES PARK AND RECREATION DISTRICT, et al.
Case No.: 2008 CA 11315 (Matter Nos.: 3198-002 and 3778-001)

Dear Mr. Barnebey and Ms. Miller:

Pursuant to Florida's Public Records Act, Chapter 119, Florida Statutes, this is a request to inspect and copy the public records listed below. Further, this records request applies to all records maintained by Trailer Estates Park and Recreation District (the "District"), its employees, agents, elected and appointed representatives, its legal counsel and any and all records retained by individuals responsible for reviewing or supervising such documents or records. Please make the following public records available for inspection promptly:

1. Any and all financial documents, including but not limited to bank statements, investment records, and budgets, of the District from January 1, 2004, to the December 31, 2008.
2. Any and all correspondence, including but not limited to emails, regarding the District's financial records for 2005, 2006, 2007, 2008, and 2009.
3. Any and all sales tax applications of the District from January 1, 2004, to the December 31, 2008.
4. Any and all sales tax reports the District has issued from January 1, 2004, to the December 31, 2008.

EXHIBIT

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1001 Third Avenue West
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Jacksonville, Florida 32202

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Suite 100
Tallahassee, Florida 32308

WEST PALM BEACH
1700 Palm Beach Lakes Blvd.
Suite 1000
West Palm Beach, Florida 33401

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5. Any and all record retention policies, including but not limited to drafts and prior versions, of the District from January 1, 2004, to the December 31, 2008.
6. Any and all notices regarding the January 5, 2009, Executive Session of the District's Board.
7. Any and all documents or evidence of publication of the notice of the January 5, 2009, Executive Session.
8. Any and all emails, documents, correspondence, or communications regarding the January 5, 2009, Executive Session.
9. Any and all documents provided to the District by its legal counsel during the public meeting held on January 5, 2009.
10. Any and all documents provided to the District by its legal counsel during the Executive Session held on January 5, 2009.
11. Any and all agendas and minutes from the Executive Session held on January 5, 2009.
12. The transcript from the Executive Session held on January 5, 2009.
13. Any and all minutes from "pre-meetings" referenced in the District's Board Meeting minutes dated March 21, 2005.
14. Any and all minutes from all meetings where the increase in marina fees was discussed from January 1, 2004, to the December 31, 2008.
15. Any and all minutes from all meetings where the increase in parking lot storage fees was discussed from January 1, 2004, to the December 31, 2008.
16. Any and all emails and letters the District received from Mary Lou Smith during the May of 2008.

To date, we have not been provided a time and date to inspect District records that are responsive to our December 12, 2008, public records request. In accordance with Florida Statute Section 119.07(1)(c), a custodian of public records must acknowledge request to inspect or copy records **promptly and respond** to such requests in good faith. It has been nearly a month since our request was submitted. Please provide us with immediate access to the records responsive to our December 12, 2008, public records request.

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If you contend that any record, or any portion of any record, does not exist, please state such in writing. If you contend that any record, or any portion of any record is exempt from inspection and examination, please state in writing the basis of the exemption which you contend is applicable to the record, including statutory citation to an exemption created or afforded by statute, and state in writing and with particularity the reasons for the conclusion that the record is exempt. Please be cautioned that failure to timely produce these records may result in the filing of a civil action to enforce the provisions of Chapter 119, Fla. Stat., including a request for attorneys' fees and costs pursuant to §119.12(1), Fla. Stat.

Please contact my paralegal, Melanie Marken, at 941-708-4040 to arrange time for the document review. If during our review and inspection, we request copies of some or all of the documents provided, we are willing to pay reasonable costs associated with the duplication of those documents in accordance with Chapter 119.07(1) (a), Florida Statutes.

Sincerely,

LEWIS, LONGMAN & WALKER, P.A.

Jennifer R. Cowan

JRC/ash

cc: Thomas D. Shults, Esquire
Melanie A. Marken, CP
Mary Lou Smith
Sharon Denson



LEWIS, LONGMAN & WALKER, P.A.
ATTORNEYS AT LAW

Reply To: Bradenton

February 4, 2009

Via Facsimile and U.S. Mail

Mark P. Barnebey, Esquire
Kirk Pinkerton
1301 6th Avenue West
Suite 401
Bradenton, Florida 34205-7435

RE: MARY LOU SMITH and SHARON DENSON vs.
TRAILER ESTATES PARK AND RECREATION DISTRICT, et al.
Case No.: 2008 CA 11315 (Matter Nos.: 3198-002 and 3778-001)

Dear Mark,

In your January 16, 2009, letter, you cited Florida Statutes § 286.011 as an exemption to our public records request for the transcript from the Trailer Estates Park and Recreation District's ("District") Executive Session that occurred on January 5, 2009. Florida Statutes § 286.011 provides specific conditions that must be met to properly conduct a "shade" meeting and preserve the exemption. Specifically, Florida Statutes § 286.011 (8) (d) states:

- d) The entity shall give reasonable public notice of a time and date of the attorney-client session and the names of the persons who will be attending the session. The session shall commence at an open meeting at which the persons chairing the meeting shall announce the commencement and estimated length of the attorney/client session and the **names of the persons attending...**

Florida Statutes § 286.001 (8)(d)(emphasis supplied). The detailed provisions of Florida Statutes §286.001 (8)(d) are to be narrowly construed and strictly applied. See, *City of Dunnellon v. Aran*, 662 So. 2d 1026, 1027 (Fla. DCA 1995) (stating "[t]he clear requirements of the statute are neither onerous nor difficult to satisfy".)

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The Executive Session on January 5, 2009, was not conducted in the manner proscribed by Florida Statutes § 286.011 (8) (d). Specifically, during the District's January 5, 2009 open meeting, Chairperson, Martha Brauer attempted to list all of the names of members of District's Board attending the Executive Session but did not name John Vander Molen. Nevertheless, John Vander Molen subsequently attended the Executive Session. During the District's open meeting, Ms. Brauer read directly from a document and failed to name John Vander Molen as one of the persons attending. Furthermore, the omission is obvious and can be confirmed by viewing of the video of the January 5, 2009, open meeting. The District failed to strictly comply with the provisions of Florida Statutes § 286.011 (8)(d) in holding its Executive Session and hence, the exemption asserted in accordance with that statute is waived. See again, *City of Dunnellon*, 662 So. 2d at 1027 (Holding that failure to specifically name an attorney in attendance at the meeting waived the exemption).

Please produce a copy of the transcript from the January 5, 2009, Executive Session immediately. If you have any questions or need any information, please do not hesitate in contacting me.

Sincerely,

Lewis, Longman & Walker, P.A.



Jennifer R. Cowan

cc: Tom Shults, Esquire
Kevin S. Hennessy, Esquire
Maggie D. Mooney-Portale, Esquire
Clients