

COPY

IN THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR MANATEE COUNTY, FLORIDA
CIVIL DIVISION

MARY LOU SMITH
an individual, and
SHARON DENSON,
an individual

Plaintiffs,

vs.

CASE NO.: 08 CA 11315
Division: B

TRAILER ESTATES PARK AND
RECREATION DISTRICT,
an independent special taxing district,
JANET JONES, an individual,
JOHN VANDERMOLEN, an individual,
JOSEPH SALERNO, an individual, and
MARY LOU MCNULTY, an individual

Defendants.

**NOTICE OF FILING THE ORIGINAL AFFIDAVITS OF
MARY LOU SMITH, SHARON DENSON, AND JENNIFER COWAN
IN SUPPORT OF PLAINTIFFS' MOTION FOR TEMPORARY INJUNCTION**

COMES NOW, Plaintiffs, MARY LOU SMITH and SHARON DENSON, by and through
its undersigned counsel and hereby requests the parties take Notice of Filing the Original Affidavits
of Mary Lou Smith, Sharon Denson, and Jennifer Cowan in support of Plaintiffs' Motion for
Temporary Injunction.

Respectfully submitted,

Maggie D. Mooney-Portale

KEVIN S. HENNESSY, ESQUIRE
Florida Bar No. 0602558
MAGGIE D. MOONEY-PORTALE, ESQUIRE
Florida Bar No. 0555924
JENNIFER R. COWAN
Florida Bar No. 0038081
Lewis, Longman & Walker, P.A.

Due Date	
Cal.	
Ct. Rep.	
CC Client	<input checked="" type="checkbox"/>

MAR 11 2009

1001 3rd Avenue West, Suite 670
Bradenton, Florida 34205
Telephone: (941) 708-4040
Facsimile: (941) 708-4024
Attorneys for Plaintiffs,
Mary Lou Smith and Sharon Denson

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to **Hunter Carroll, Esquire**, Matthews, Eastmoore, Hardy, Crauwels & Garcia, P.A., 1777 Main Street, Suite 500, Sarasota, FL 34236, **James D. Dye, Esquire**, Dye, Deitrich, Petruff, & St. Paul, 1111 Third Ave. West, Suite 300, Bradenton, FL 34205, **Robert E. Turffs, Esquire**, 1444 First Street, Suite B, Sarasota, FL 34236, **Robert J. Gill, Esquire**, Ruden McClosky, Smith, Schuster & Russell, P.A., 1515 Ringling Blvd., Suite 700, Sarasota, FL 34236, **Thomas D. Shults, Esquire**, Kirk Pinkerton, P.A., 50 Central Avenue, Suite 700, Sarasota, FL 34236, by *U.S. First Class Mail*, this 10th day of March, 2009.


MAGGIE D. MOONEY-PORTALI, ESQUIRE

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an independent special taxing district,
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JOHN VANDERMOLEN, an individual,
JOSEPH SALERNO, an individual, and
MARY LOU MCNULTY, an individual

Defendants.

AFFIDAVIT OF MARY LOU SMITH

STATE OF FLORIDA
COUNTY OF MANATEE

I, MARY LOU SMITH, the Affiant herein, do hereby swear and affirm as follows:

1. My name is Mary Lou Smith and I am a competent adult over the age of 18 and able to give testimony in a court of law.
2. I make this affidavit based upon personal knowledge.
3. I currently reside at 6907 Tarpon Lane, Bradenton, Florida 34207, in Manatee County, Florida.
4. I have owned property within the Trailer Estates Park and Recreational District ("District") since early 1999.

5. I have attended or viewed, as broadcast on Channel 95, all of the below referenced District's Board of Trustee ("Board") meetings.

6. Based on communications that occurred at the District's Board of Trustee ("Board") meetings during January thru March of 2009, I believe that Sunshine Law violations have occurred and continue to occur.

7. I have observed the following instances that lead me to the conclusion that Trustees are communicating about District business outside of publicly noticed meetings.

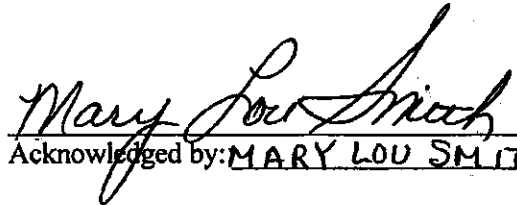
- a) At the January 5, 2009, Board meeting I observed Martha Brauer (Trustee) discussing that she had a "committee" of volunteers that were developing the District's website on behalf of the District. This "committee" had been authorized to meet and develop the District's website and I believe that the "committee" is meeting outside the Sunshine.
- b) I check the District's bulletin boards regularly and have never seen a notice for the website development "committee" that Martha Brauer formed.
- c) On January 27, 2009, my sister and I attended a public records review at the District's office. After lunch at approximately 1p.m., I witnessed and heard Martha Brauer talking to Fred Hoch (Trustee) about Board business.
- d) Also during my January 27, 2009, public records review, I witnessed and heard John Vandermolen and Fred Hoch.
- e) Also during my January 27, 2009, public records review, I witnessed and heard John Vandermolen and Joe Salerno (Trustee) discussing the District's survey in the District's office.
- f) I viewed the February 23, 2009, Board workshop, where Martha Brauer explained that she received the District's attorney's breakdown of costs associated with the above referenced litigation on Friday, but did not have time to call an emergency meeting of the Board. At the same meeting, Gail Opper (Trustee) states that she had thought about this breakdown of litigation costs all weekend. The Treasurer, Pam Cole, stated that she had not received this information until Monday. Based upon this dialog, I believe that Martha Brauer and Gail Opper met outside the Sunshine to discuss the District's litigation expenses.
- g) I viewed the March 2, 2009, Budget Hearing, where Martha Brauer stopped the meeting to take a break. At that time, Martha Brauer announced that she and Gail Opper were going together to the District office to check the District's calendar for continuing the Budget Hearing to another day.

h) I viewed the March 9, 2009, Board Workshop, where Martha Bauer states that she and John Vandermolen were members of an audit committee that had met outside the Sunshine.

8. On January 5, 2009, I viewed the District's Board meeting. During this meeting, Martha Brauer announced that the Board was going to go into an Executive Session with its attorney, and then Ms. Brauer listed the names of the attendees of that meeting, but excluded John Vandermolen's name from the list of attendees. Mr. Vandermolen walked into the office, where the Executive Session was being held, with other Board members.

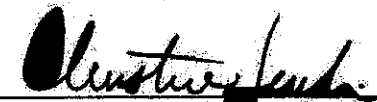
UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING AND THAT THE FACTS STATED IN IT ARE TRUE.

FURTHER AFFIANT SAYETH NAUGHT.


Acknowledged by: MARY LOU SMITH

STATE OF FLORIDA
COUNTY OF MANATEE

The foregoing instrument was acknowledged before me this 9th day of March, 2009 by Mary Lou Smith; who [check one] is personally known to me has produced _____ as identification.


Notary Public, State of Florida
Christine Jenkins

Notary Public's Stamp/Seal



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MARY LOU MCNULTY, an individual

Defendants.

AFFIDAVIT OF SHARON DENSON

STATE OF FLORIDA
COUNTY OF MANATEE

I, SHARON DENSON, the Affiant herein, do hereby swear and affirm as follows:

1. My name is Sharon Denson and I am a competent adult over the age of 18 and able to give testimony in a court of law.
2. I make this affidavit based upon personal knowledge.
3. I currently reside at 1613 Illinois Avenue, Bradenton, Florida 34207, in Manatee County, Florida.
4. I have been a part time resident of the Trailer Estates Park and Recreational District ("District") since approximately May of 2001.
5. I have attended or viewed the public meetings of the District's Board of Trustees ("Board") as broadcasted on Channel 95, during December 2008 thru March of 2009.

6. Based on communications that occurred at the District's Board of Trustee ("Board") meetings during December 2008 thru March of 2009, I believe that Sunshine Law violations have occurred and continue to occur.

7. I have observed the following instances that lead me to the conclusion that Trustees are communicating about District business outside of publicly noticed meetings.

- a) Based on statements made by the Trustees at the December 8, 2008, Workshop, it appears that the Trailer Estates Park and Recreation District Budget Questionnaire ("Budget Questionnaire") was developed, revised and edited outside of the Sunshine by Trustees, Martha Brauer, Janet Jones, John Vandermolen, and Joe Salerno.
- b) On January 7, 2009, I overheard Martha Brauer, the Chairman of the Board, tell other residents that she was going to meet with Harry Fitzpatrick (Trustee) on Friday, at 11:00 a.m. to discuss Bingo and the volunteer program.
- c) At the January 5, 2009, Board meeting I observed Martha Brauer discussing that she had a "committee" of volunteers that were developing the District's website on behalf of the District. This "committee" had been authorized to meet and develop the District's website and I believe that the "committee" is meeting outside the Sunshine.
- a) I check the District's bulletin boards regularly and have never seen a notice for the website development "committee" that Martha Brauer formed.
- b) At the February 9, 2009, Board meeting John Vandermolen and Joe Salerno (Trustee) stated that the minutes of the District's public meetings and activity updates will be on the newly developed website. Prior to the February 9, 2009 Board meeting, there had not been any discussion at a public meeting regarding the content to be included on the District's website. Accordingly, I believe that Trustees, Martha Brauer, John Vandermolen, and Joe Salerno have communicated outside of the Sunshine regarding the website.
- c) On January 27, 2009, my sister and I attended a public records review at the District's office. After lunch at approximately 1p.m., I witnessed and heard Martha Brauer talking to Fred Hoch (Trustee) about Board business.
- d) Also during my January 27, 2009, public records review, I witnessed and heard John Vandermolen and Fred Hoch discussing District business including permits and ARC Committee items in the District's office.
- e) Also during my January 27, 2009, public records review, I witnessed and heard John Vandermolen and Joe Salerno discussing the District's survey in the District's office.

- f) I viewed the February 23, 2009, Board workshop, where Martha Brauer explained that she received the District's attorney's breakdown of costs associated with the above referenced litigation on Friday, but did not have time to call an emergency meeting of the Board. At the same meeting, Gail Opper (Trustee) states that she had thought about this breakdown of litigation costs all weekend. The Treasurer, Pam Cole, stated that she had not received this information until Monday. Based upon this dialog, I believe that Martha Brauer and Gail Opper met outside the Sunshine to discuss the District's litigation expenses.
- g) I viewed the March 2, 2009, Budget Hearing, where Martha Brauer stopped the meeting to take a break. At that time, Martha Brauer announced that she and Gail Opper were going together to the District office to check the District's calendar for continuing the Budget Hearing to another day.
- h) I viewed the March 9, 2009, Board Workshop, where Martha Bauer states that she and John Vandermolen were members of an audit committee that had met outside the Sunshine.

8. On January 5, 2009, I viewed the District's Board meeting. During this meeting, Martha Brauer announced that the Board was going to go into an Executive Session with its attorney, and then Ms. Brauer listed the names of the attendees of that meeting, but excluded John Vandermolen's name from the list of attendees. Mr. Vandermolen walked into the office, where the Executive Session was being held, with other Board members.

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UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING AND THAT THE FACTS STATED IN IT ARE TRUE.

FURTHER AFFIANT SAYETH NAUGHT.


Acknowledged by: SHARON BENSON

STATE OF FLORIDA
COUNTY OF MANATEE

The foregoing instrument was acknowledged before me this 9th day of March, 2009 by Sharon Benson; who [check one] is personally known to me has produced _____ as identification.


Notary Public, State of Florida
Christine Jenkins
Notary Public's Stamp/Seal



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JOSEPH SALERNO, an individual, and
MARY LOU MCNULTY, an individual

Defendants.

AFFIDAVIT OF JENNIFER COWAN

STATE OF FLORIDA
COUNTY OF MANATEE

I, JENNIFER COWAN, the Affiant herein, do hereby swear and affirm as follows:


1. My name is Jennifer Cowan and I am a competent adult over the age of 18 and able to give testimony in a court of law.
2. I make this affidavit based upon personal knowledge.
3. I am currently employed as an attorney with the firm Lewis, Longman and Walker, P.A, which represents Sharon Denson and Mary Lou Smith in the above referenced matter.
4. On January 5, 2009, I attended the Trailer Estates Park and Recreation District's ("District") Board of Trustees ("Board") meeting. During this meeting, Martha Brauer announced that the

Board was going to go into an Executive Session with its attorney, and then Ms. Brauer listed the names of the attendees of that meeting, but excluded John Vandermolen's (Trustee) name from the list of attendees. Mr. Vandermolen attended the Executive Session.

5. On January 22, 2009, during my public records inspection, I witnessed and heard Bob Durrin (Trustee) and Fred Hoch (Trustee) discussing the website and the appointment of committees, which were to be discussed at the next Board meeting.

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING AND THAT THE FACTS STATED IN IT ARE TRUE.

FURTHER AFFIANT SWEETH NAUGHT.


Acknowledged by: Jennifer Cowan

STATE OF FLORIDA
COUNTY OF MANATEE

The foregoing instrument was acknowledged before me this 10th day of March, 2009 by Jennifer Cowan: who [check one] is personally known to me has produced _____ as identification.

A. Soaring Hawk
Notary Public, State of Florida

Notary Public's Stamp/Seal

