

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

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R.B. SHORE

2010 JAN -8 PM 1:58

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

CLERK CIRCUIT COURT
MANATEE CO. FLORIDA

Plaintiffs,

v.

CASE NO. 2008-CA-11315

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

Defendants.

DEFENDANT JOESPH SALERNO'S
MOTION FOR PARTIAL SUMMARY JUDGMENT

Defendant, JOSEPH SALERNO, an individual, by and
through his undersigned counsel, hereby moves this Court for
Partial Summary Judgment, pursuant to Rule 1.540 Florida Rules
of Civil Procedure and, as grounds for this Motion, states:

I. ALLEGATION 37 (bbb)

1. The facts upon which this motion is based are
undisputed and Defendant Salerno is entitled to Partial Summary
Judgment as a matter of law. Further, Salerno, for purposes of
this motion, relies upon the Summary Judgment materials filed in
support of Defendant Janet Jones' Motion for Summary Judgment.

2. Previously filed with this Court is Exhibit 1, pages

85-87 of Mr. Salerno's deposition regarding a May 2008 memo he sent to the board to be read at a Trustee's meeting. Also previously filed with the Court is Exhibit 2, a copy of that memo.

3. Florida law permits Salerno to provide other trustees with this memo. See Op. Atty. Gen. Fla. 2007-35, (Aug. 28, 2007); Op. Atty. Gen. Fla. 2001-20 (March 21, 2001); and Op Atty. Gen. Fla. 96-35 (May 17, 2006).

4. That memo is clearly intended to be read at a board meeting and did not invite a response.

II. ALLEGATIONS 37 (eee) and (yyy - Second Sentence)

5. Plaintiffs have alleged that in December 2008, Board members including Salerno held meeting outside of the Sunshine where they drafted, revised, and developed a budget questionnaire or other questionnaires.

6. On or about November 17, 2008, the Board of Trustees, within a duly noticed meeting, reviewed Sharon Denson's letter regarding the budget questionnaire. On December 8, 2008, the Trustees, at a duly noticed meeting, discussed the budget questionnaire. On December 15, 2008, the Board of Trustees, at a duly noticed meeting, approved the budget questionnaire 8-0. Even without the votes of Salerno and Jones, there were sufficient votes to accept the questionnaire. Again, the Board of Trustees discussed the budget within duly noticed meetings

on February 23, 2009, March 9, 2009, and March 16, 2009.

7. As result of the foregoing, there was a cure of any alleged sunshine violation, if indeed such a violation occurred.

WHEREFORE, Defendant, JOSEPH SALERNO, moves this Court to grant a Partial Summary Judgment.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy hereof has been furnished by U.S. first class mail to the addressees listed on the attached Service List this 6th day of January, 2010.

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