

IN THE CIRCUIT COURT OF THE  
TWELFTH JUDICIAL CIRCUIT OF THE  
STATE OF FLORIDA IN AND FOR MANATEE COUNTY

CIRCUIT CIVIL CASE NO. 2008-CA-11315

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:
MARY LOU SMITH, an individual, and :
SHARON DENSON, an individual, :
:
Plaintiffs, : VIDEOTAPED
: DEPOSITION OF
vs. : MARY LOU SMITH
:
TRAILER ESTATES PARK AND :
RECREATION DISTRICT, an : VOLUME I
independent special taxing district, : Pages 1 - 146
JANET JONES, an individual, :
JOHN VANDER MOLEN, an individual, :
JOSEPH SALERNO, an individual, and :
MARY LOU McNULTY, an individual, :
:
Defendants. :
:
-----X

TAKEN BY: THE DEFENDANT, TRAILER ESTATES PARK  
AND RECREATION DISTRICT, HEREIN

BEFORE: JOANN L. ZECK  
Court Reporter  
Notary Public  
State of Florida at Large

DATE: August 27, 2009  
Commencing at 9:44 A.M.

PLACE: LEWIS, LONGMAN & WALKER, P.A.  
1001 Third Avenue West  
Suite 670  
Bradenton, Florida 34205

1       **that you personally observed with your own eyes?**

2               MR. HENNESSY:  Objection, form.

3               THE DEPONENT:  No.

4               BY MR. SHULTS:

5               **Q     There are others that you've personally**  
6       **observed with your own eyes that are not contained in**  
7       **the March 9th, 2009 affidavit?**

8               A     I can think of at least one.  There may be  
9       others, but --

10              **Q     All right.**

11              A     -- that's --

12              **Q     You can think of one.**

13              A     (Nods head up and down.)

14              **Q     What one is that?**

15              A     We put in a boat dock two years ago.  And I  
16       made an application to the ARC committee, and it was  
17       approved within twenty minutes.

18              **Q     And what was wrong with that?**

19              A     It did not go through the committee process.  
20       It was approved by a person.

21              **Q     What person?**

22              A     John Vander Molen.

23              **Q     What makes you believe that it had to go**  
24       **through a committee process?**

25              A     That is the responsibility of the ARC

1 committee is to approve permits.

2 Q Where do you get your understanding as to what  
3 the -- the responsibility of the ARC committee?

4 A I have -- it is my understanding that that's  
5 why that committee exists.

6 Q And how do you know that it wasn't approved by  
7 the ARC committee?

8 A In order to have been approved by the ARC  
9 committee, they would have had to have a meeting out of  
10 the Sunshine.

11 Q Well, they could have had a meeting in the  
12 Sunshine though.

13 A Within twenty --

14 MR. HENNESSY: Objection to the form.

15 THE DEPONENT: Oh. I -- I took the form to  
16 the office, and I came back home and received a  
17 call that it had been approved.

18 BY MR. SHULTS:

19 Q Do you have a boat dock today?

20 A Yes, I do.

21 Q Is it the dock that you got the permit for?

22 A Yes, it is.

23 Q Are you using the dock?

24 A Yes, I am.

25 Q So you're saying that the permit that was

1 **granted for that dock is void; is that right?**

2 MR. HENNESSY: Objection to the form, calls  
3 for a legal conclusion.

4 THE DEPONENT: I'm saying that the -- the  
5 committee process was not followed in --

6 BY MR. SHULTS:

7 **Q Well --**

8 A That you asked me if I had an -- a for  
9 instance or something that I've seen with my own eyes,  
10 whatever, and I -- I -- that -- that is one example  
11 that I'm personally involved in.

12 **Q Well, tell me what you personally saw**  
13 **regarding your dock permit. I mean, did you mail it**  
14 **in, did you --**

15 A No.

16 **Q -- walk it in?**

17 A I carried it to the office.

18 **Q Okay. Then what happened?**

19 A I received a phone call in about twenty  
20 minutes that it had been approved and I went back and I  
21 picked it up.

22 **Q You don't know what happened during that**  
23 **twenty-minute period?**

24 A No. I had not seen any advertisement for an  
25 ARC committee meeting during that time --

1       **bulletin boards several days prior to the January 5th,**  
2       **2009 meeting?**

3           A       I generally look for notices of committee  
4 meetings and that kind of thing. Trailer Estates has a  
5 Channel 95, TV channel where they post notices of -- of  
6 meetings --

7           **Q       Uh-huh.**

8           A       -- and they just scroll it. So in terms of  
9 notices, notices that are put on the bulletin board are  
10 also supposed to be on Channel 95, any official park  
11 notices.

12          **Q       But I'm asking particularly about the bulletin**  
13 **boards that you -- that you mentioned in Paragraph**  
14 **7 b).**

15          A       Uh-huh.

16          **Q       And you say you check them regularly.**

17          A       Uh-huh.

18          **Q       Basically you're saying that -- but would it**  
19 **be fair to say at least once a week in January of '09**  
20 **you were checking the bulletin boards?**

21          A       I think so.

22          **Q       How about your sister, how frequently would**  
23 **she check the bulletin boards?**

24          A       I can't answer for her.

25          **Q       Let me take you to 7 c) of your affidavit.**

1       **You describe an event on January 27th, '09, and you**  
2       **say, quote, "I witnessed and heard Martha Brauer**  
3       **talking to Fred Hoch, paren, Trustee, about Board**  
4       **business," unquote. Do you see that?**

5           A       Uh-huh.

6           **Q       You'll have to answer out loud.**

7           A       Yes.

8           **Q       What --**

9           A       I'm sorry.

10          **Q       -- did you hear?**

11          A       I heard Martha saying, Shh, and I -- and I saw  
12       Martha motioning with her hand (indicating). Fred was  
13       standing on the other side of her from me when I walked  
14       around the corner into the office. And I -- I -- I  
15       heard Fred's voice, but I couldn't identify words that  
16       he was saying; the two were -- the two were talking  
17       and -- and it -- it was the impression that I had that  
18       because she was trying to have him not talk, because he  
19       didn't see me and she did, and we walked around the  
20       corner and I have no reason to believe she would have  
21       been asking him to be quiet if they were not talking  
22       about park business.

23          **Q       But you didn't hear what Martha and Fred were**  
24       **saying to each other regarding the event you described**  
25       **in Paragraph 7 c) of your affidavit; correct?**

1           A     That's correct, it was the -- it was the  
2 behavior, and they were talking and she was trying to  
3 have him not talk.

4           Q     All right. Let's go to Paragraph 7 d). You  
5 also describe an event that occurred on January 27th --

6           A     That's correct.

7           Q     -- '09. You say, quote, "I witnessed and  
8 heard John Vander Molen and -- and Fred Hoch," unquote.  
9 What did you hear?

10          A     Again it was -- it was the -- it was the total  
11 picture. What I saw was the two of them standing  
12 face-to-face. Mr. Hoch had a paper in his hand. They  
13 were having a serious discussion; I heard voices, but  
14 did not hear content. And I had no reason to believe  
15 that they were not discussing Board business.

16          Q     But you --

17          A     I was in the office with my attorney, it was  
18 one day after they had had a Sunshine workshop asking  
19 Trustees not to talk to one another, and these  
20 conversations were going on the very next day when I  
21 happened to be in the office. It's been a past  
22 practice of Trustees talking to one another outside of  
23 the Sunshine, and I had no reason to believe that this  
24 was any different.

25          Q     In Paragraph 7 d), you did not hear any of the