

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

-----X
MARY LOU SMITH, an individual, and :
SHARON DENSON, an individual, :

Plaintiffs, :

DEPOSITION OF

vs. :

KENNETH
MEIERJURGEN

TRAILER ESTATES PARK AND :
RECREATION DISTRICT, an :
independent special taxing district, :
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 14, 2009
Commencing at 10:48 A.M.

PLACE: KIRK-PINKERTON, P.A.
1301 Sixth Avenue West
Suite 401
Bradenton, Florida 34205

APPEARANCES: KEVIN S. HENNESSY, Esquire
Lewis, Longman & Walker, P.A.
1001 Third Avenue West
Suite 670
Bradenton, Florida 34205
Appearing on Behalf of the
Plaintiffs

1 **Sunshine Law?**

2 A Just this one time I believe.

3 **Q All right. And when did this one time occur?**

4 A It was in July of 2007.

5 **Q And where did it occur?**

6 A In the -- one of the Board offices. Pam --
7 Pam Cole's office.

8 **Q And could you tell me what you observed?**

9 A Yes, I was in there for -- in response to Pam
10 Cole inviting me in, because we were talking about
11 preparation for disaster such as a hurricane, that
12 type of thing. And while I was in the office, John
13 Vander Molen was speaking to Janet Jones in regards to
14 the repairing of the -- our marina. John said, I will
15 decide what has to be done at the marina, I will get
16 the bids, I am the head of the Maintenance, I don't
17 need a Marina Committee to tell me what to do. Janet
18 was remarking just, Uh-huh, yes; sure, John, you're
19 right, John. Well, Pam looked at me and said, Oh, my.
20 We both heard the conversation. That's pretty much it.

21 **Q May I see the notes you were just referring**
22 **to?**

23 A Sure (handing document).

24 **Q Do you mind if I put a sticker on this?**

25 A No, not at all.

1 **street sign, is it your understanding it's the**
2 **Maintenance Trustee's job to see that it's replaced?**

3 A Sure.

4 **Q And if bids are necessary, is it your**
5 **understanding that the Maintenance Trustee job is to**
6 **get bids?**

7 MR. HENNESSY: Objection to the form.

8 THE DEPONENT: In the case of the marina, the
9 charge was that -- I believe I showed this to you
10 (handling document). Their charge was that we were
11 also to get bids, but -- but it is also -- I don't
12 deny that it is the Maintenance responsibility to
13 get bids.

14 BY MR. SHULTS:

15 **Q All right. So --**

16 A Yeah.

17 **Q -- it is the Maintenance Trustee's**
18 **responsibility to get bids for what needs to be done at**
19 **the marina; correct?**

20 MR. HENNESSY: Objection to the form.

21 BY MR. SHULTS:

22 **Q Is that correct? That's your understanding;**
23 **isn't it?**

24 MR. HENNESSY: Objection to the form.

25 THE DEPONENT: I guess I'm not sure how to

1 answer that. I'm not sure what their
2 responsibility is.

3 BY MR. SHULTS:

4 **Q Well, I believe you said a moment ago that you**
5 **-- and correct me if I'm wrong -- you agreed that it**
6 **was also the Maintenance Trustee's responsibility to**
7 **get bids for the marina.**

8 MR. HENNESSY: Objection to the form;
9 argumentative, mischaracterizes prior testimony.

10 THE DEPONENT: I guess I'm confused as a --
11 the procedure.

12 BY MR. SHULTS:

13 **Q You don't really know; is that --**

14 A That's right.

15 **Q Okay. So Mr. Vander Molen's statement that he**
16 **will get bids for whatever needs to be done at the**
17 **marina doesn't indicate that -- to you that he was**
18 **doing something outside of his authority; does it?**

19 MR. HENNESSY: Objection to the form.

20 THE DEPONENT: I guess that's probably part of
21 his job, yeah, I guess.

22 BY MR. SHULTS:

23 **Q All right.**

24 A Yeah.

25 **Q So --**

1 A Sure.

2 **Q -- what was it about what Mr. Vander Molen**
3 **said that you believe violated your understanding of**
4 **the Sunshine Law?**

5 A He was talking to Janet Jones about something,
6 about repairing and spending money, park's money,
7 that's something that had to come up to a vote and be
8 agreed on by the Board of Trustees, and I understand
9 that that's a violation of the Sunshine Law.

10 **Q It's your understanding that if -- that**
11 **Mr. Vander Molen's statement to Mrs. Jones that, I will**
12 **get bids for the marina, violated the Sunshine Law?**

13 A I believe the -- the statement as a whole
14 violated the Sunshine Law. There was more stated than
15 what you just said.

16 **Q All right. Well, just with what I said -- and**
17 **we can get to the other parts.**

18 A Uh-huh.

19 **Q But just with what I said, does that in your**
20 **view violate the Sunshine Law?**

21 MR. HENNESSY: Objection to the form; improper
22 hypothetical.

23 THE DEPONENT: I -- I guess I don't know how
24 to answer that.

25 - - - - -

1 BY MR. SHULTS:

2 Q Would it be fair to say you don't know?

3 A That's correct.

4 MR. HENNESSY: Objection to the form.

5 BY MR. SHULTS:

6 Q All right. In your notes that you wrote
7 within the last week you state, quote, "John, I will
8 decide what has to be done at marina. I will get bids.
9 I am the head of Maintenance. I don't need a Marina
10 Committee to tell me what to do," unquote. What part
11 of Mr. Vander Molen's statement as noted by you do you
12 believe violated the Sunshine Law?

13 A We were talking about rebuilding seven docks
14 with -- in the neighborhood of thirteen or fourteen
15 thousand dollars, something that had to be agreed upon
16 by the Board, both doing the job and spending the money
17 obviously. I believe that the conversation was
18 influencing Janet Jones' decision making. She was
19 agreeing to everything John was saying. And I believe
20 that's a violation of the Sunshine Law.

21 Q Well, Mr. Vander Molen wasn't telling
22 Mrs. Jones how much he planned to spend on -- or how
23 much -- let me rephrase the question.

24 Mr. -- let me begin a new question.

25 I think we already talked about

1 **Mr. Vander Molen told Mrs. Jones that he would get**
2 **bids; correct?**

3 MR. HENNESSY: Objection to the form.

4 BY MR. SHULTS:

5 **Q Is that right?**

6 MR. HENNESSY: Objection to the form.

7 THE DEPONENT: Okay.

8 BY MR. SHULTS:

9 **Q Mr. Vander Molen didn't say -- suggest to**
10 **Mrs. Jones that, And I will be the one who decides what**
11 **bid will be accepted; did Mr. Vander Molen say that?**

12 MR. HENNESSY: Objection to the form.

13 THE DEPONENT: Not necessarily probably.

14 BY MR. SHULTS:

15 **Q Well, isn't it true that ultimately the Board**
16 **evaluated these bids and decided what bid to accept?**

17 MR. HENNESSY: Objection.

18 THE DEPONENT: That -- yeah, sure.

19 BY MR. SHULTS:

20 **Q How many bids were submitted?**

21 A Three bids.

22 **Q Okay. And that was the -- the evaluation and**
23 **acceptance of that bid was done at a public meeting;**
24 **correct?**

25 A That's correct.

1 Q And there was discussion; correct?

2 A That's correct.

3 Q And did the Marina Committee participate in
4 that discussion?

5 A No.

6 Q Do you know why the Marina Committee didn't
7 participate in that discussion?

8 A The -- we asked to be on the agenda over
9 probably every meeting for a year-and-a-half, and on
10 almost every occasion we're not even allowed to be on
11 the agenda.

12 Q Well, who -- do you know for a fact that you
13 were asked -- that the Marina Committee asked to be on
14 the agenda for the particular meeting where the bids
15 were analyzed?

16 A Yes, I -- yes, sir.

17 Q Who asked -- who made that request?

18 A We made the request of Janet Jones.

19 Q Who made the request to Janet Jones?

20 A Our liaison, that was Bruce Smith.

21 Q Okay. How do you know Bruce Smith made that
22 request?

23 A I guess I'd have to take his word for it.

24 Q Okay.

25 A We asked him to make the request. And in

1 fact, I believe it was this meeting, we were on the
2 agenda, and as we entered the meeting we noticed that
3 we were crossed off the agenda. Bruce put us back on
4 the agenda, and we were again removed from the agenda.

5 Q Now was Bruce on the Board at the time?

6 A Yes.

7 Q Okay. So you actually had a Marina Committee
8 member serving on the Board of Directors; correct?

9 A He was our liaison.

10 Q Okay. So Mr. Bruce Smith was able to
11 participate in the discussion regarding the bids;
12 correct?

13 A That's correct.

14 Q And he did in fact participate; didn't he?

15 A I'm sure he did.

16 Q Are you friends with Sharon Denson?

17 A We're -- I'm an acquaintance, I know Sharon
18 Denson.

19 Q Do you live on the same street?

20 A No.

21 Q Are you friends with Mary Lou Smith?

22 A I know Mary Lou Smith. I know Mary Lou Smith.

23 Q Would you describe yourself as a friend of
24 Mary Lou Smith?

25 A As a -- that's a pretty loose question.

1 I know her, I get along -- I know her, I get
2 along with her to say Hello to her. I've never been to
3 either one of their houses, though I'm sure that we've
4 been to different activities in the park.

5 That's it.

6 **Q Have you ever run for the --**

7 A Oh, I'm sorry, I'll -- I'll -- Sharon Denson
8 is a member of a committee that I belong to, it's a --
9 a C.E.R.T. organization in the park. She's a member of
10 that.

11 **Q Have you ever run for the Board of Trustees?**

12 A No.

13 **Q Have you ever been convicted of a crime**
14 **anywhere in the world?**

15 A No.

16 MR. SHULTS: That's all the questions that I
17 have. Thank you.

18 CROSS-EXAMINATION

19 BY MR. SCOTT:

20 **Q Good morning --**

21 A Morning.

22 **Q -- Mr. Meierjurgan. My name is Dan Scott, and**
23 **I just have a couple of questions; I think Mr. Shults**
24 **asked most of the questions I would have asked, but --**

25 **Does your Statement that's marked as Exhibit**

1 **One, does that accurately reflect the entire**
2 **conversation that you overheard between**
3 **Mr. Vander Molen and Janet Jones?**

4 A Yeah, that's pretty much the conversation,
5 yeah.

6 Q Okay. And it says, if I may -- I'll try to
7 read it accurately. It says that John Vander Molen
8 said, I will decide what has to be done at marina. I
9 will get bids. I am the head of Maintenance. I don't
10 need a Marina Committee to tell me what to do.

11 Is that what you overheard John Vander Molen
12 say?

13 A Yes.

14 Q Okay. And then it goes on to say, Janet said,
15 uh-huh. Is that correct?

16 A Yeah, yeah.

17 Q Sure, John. You're right, John. Is that what
18 Ms. Jones said?

19 A Yes.

20 Q Okay. Now is there anything that you
21 overheard the two of them discuss that is not reflected
22 in the Statement that we've marked as Exhibit One?

23 A No.

24 Q Okay. Do you know what -- at the time that
25 you overheard this, do you know what they were talking

1 **about?**

2 A They were talking about the repair of seven of
3 the piers, I -- for lack of a better word, at the
4 marina.

5 **Q How did you know that that's what they were**
6 **talking about?**

7 A That was in discussion with the Marina
8 Committee. We had inspected the docks and -- and that
9 was just the discussion that -- we knew that there was
10 an ongoing maintenance I think of the marina.

11 **Q Was the Marina Committee at that time in the**
12 **process of getting bids for this repair work?**

13 A No. We did not get any bids.

14 **Q Okay.**

15 A We -- we definitely had discussed getting
16 bids, but we had not got -- we had not got bids.

17 **Q All right. What was your position on the**
18 **Maintenance Committee?**

19 A The Marina Committee?

20 **Q I'm sorry, the -- the Marina Committee.**

21 A I was just a member.

22 **Q Okay. When you heard John Vander Molen say**
23 **that he would get the bids, he didn't need a Marina**
24 **Committee to tell him what to do, were you offended by**
25 **that?**

1 A Yes.

2 Q Were you upset by it?

3 A Not upset, no, not upset. I -- I guess I was
4 surprised to hear that -- that type of reaction to our
5 Marina Committee. We were a volunteer committee and we
6 had a charge. I can supply it to you unless you
7 already have it.

8 Q Did you feel that the Marina Committee was
9 being ignored by the Board of Directors?

10 A No question.

11 Q In the context of this conversation that
12 you overheard, did you hear Janet Jones and John
13 Vander Molen agree on voting in any particular way at a
14 Board meeting?

15 A No.

16 Q Were there any amounts of dollars mentioned as
17 far as these bids were concerned in this conversation
18 you overheard?

19 A No.

20 Q Was there any discussion between Ms. Jones and
21 Mr. Vander Molen about talking to other Board members
22 about this?

23 A No.

24 Q And you did I believe testify a moment ago
25 that there were three bids submitted to the Board for

Marina Committee 5/1st July 19.07

We discussed the bid for the seven docks to be repaired. After talking with Mark we felt the bid from (Shoreline Marina Construction Co. Was the best bid we also recommend that ~~tree~~ Composite Deck be used. Which would be 13,275.

{ We have some question if these were sealed bids & where the money will come from. we ~~had~~ did not get to have a workshop on this Mar w/ BBB & also recommend Comp. Decking.

o Marina Comm recommending repair for seven docks & Composite Decking recommended.
from Shoreline Marine Const. Co for 10,575
Option:

2,700.00

Other bids

Comm. recommends the 13,275 be taken from the Marina Fund.

EXHIBIT

3

STATEMENT OF KENNETH MEIERJURGEN

1. My name is Kenneth Meierjurgan.
2. I have been a resident of the Trailer Estates Park and Recreation District (the "District") since 1996.
3. Sometime last year, I visited the District office to meet with Pam Cole, and while I was there, I overheard Janet Jones and John Vander Molen discussing District business.
4. In October of 2008, I made a Public Records Request to the District Office. Subsequent to receiving documents in response to that request, I found out that additional documents existed that were not provided to me. I questioned why these documents were withheld during a Board meeting and was told by John Vander Molen that those documents were privileged.

Kenneth I. Meierjurgan

KENNETH I. MEIERJURGEN
6521 Connecticut Ave.
Bradenton, FL 34207

Date: 6-05-09

EXHIBIT