

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

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

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.

FILED FOR RECORD  
R.B. SHORE  
2010 AUG 19 PM 1:23  
CLERK OF CIRCUIT COURT  
MANATEE CO. FLORIDA

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**DEFENDANT JOSEPH SALERNO'S MOTION TO AMEND ANSWER**

Defendant, JOSEPH SALERNO, by and through undersigned  
counsel hereby files this Motion to Amend Answer, pursuant to  
1.190 Florida Rules of Civil Procedure, and states:

1. As this case proceeded through discovery and the  
documents and facts are reviewed, the undersigned has realized  
the need to plead additional defenses.

2. Defendant moves to amend his answer to include a  
Fifth Affirmative Defense, which would state as follows:

Defendant Salerno, at all times material to  
this suit, acted with a good faith belief  
that his actions were proper, and in

compliance with the law.

3. The proposed Amendment will not affect the trial schedule, and will not result in an unfair prejudice to the Plaintiffs.

4. A copy of the Amended Answer including the new Affirmative Defense is attached hereto as Exhibit "A"

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** a copy of the foregoing was furnished by U.S. Mail to the addressees on the attached service list on this 18 day of August, 2010.

ROBERT E. TURFFS, P.A.

By: \_\_\_\_\_

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# EXHIBIT A

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DISTRICT, an independant special  
taxing district, JANET JONES, an  
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individual, JOSEPH SALERNO, an  
individual, and MARY LOU MCNULTY,  
an individual,

Defendants.

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**AMENDED ANSWER TO THIRD AMENDED COMPLAINT AND DEMAND FOR  
JURY TRIAL**

Defendant, JOSEPH SALERNO, by and through his undersigned  
counsel, hereby files his answer to the Third Amended  
Complaint filed herein as follows:

**VENUE, JURISDICTION AND NATURE OF THE ACTION**

1. Admitted.
2. Admitted.

**ALLEGATIONS COMMON TO ALL COUNTS**

3. Admitted.
4. Admitted.
5. Admitted.

6. Admitted.
7. Admitted.
8. Admitted.
9. Without knowledge and therefore Denied.
10. Without knowledge and therefore Denied.
11. Admitted.
12. Without knowledge and therefore Denied.
13. Admitted.
14. Admitted.
15. Without knowledge and therefore Denied.
16. Admitted as to this Defendant, otherwise Denied.
17. Without knowledge, as this Defendant was not a Board member in 2006.
18. Without knowledge, therefore denied.
19. Without knowledge, therefore denied.
20. Denied.
21. Without knowledge, therefore denied.
22. Denied.

**COUNT I-DECLARATORY JUDGMENT PURSUANT TO CHAPTER 86, BY  
CONSTRUING THE RIGHTS AND OBLIGATIONS OF THE PARTIES SET  
FORTH IN SECTION 286.011, FLA. STAT.**  
(As to all Defendants)

23. Defendant Salerno re-alleges answers in paragraphs 1 through 22.

24. Admitted for purposes of jurisdiction only.
25. Admitted.
26. Admitted.
27. Admitted.
28. Denied as to Defendant Salerno.
29. Without knowledge, therefore Denied.
30. Denied.
31. Without knowledge, therefore Denied.
32. Without knowledge, therefore Denied.
33. Without knowledge, therefore Denied.
34. Without knowledge, therefore Denied. The exhibits speak for themselves.
35. Without knowledge, therefore Denied.
36. Without knowledge, therefore Denied.
37.
  - a. Without knowledge, therefore Denied.
  - b. Without knowledge, therefore Denied.
  - c. Without knowledge, therefore Denied
  - d. Without knowledge, therefore Denied.
  - e. Without knowledge, therefore Denied.
  - f. Without knowledge, therefore Denied.
  - g. Without knowledge, therefore Denied.
  - h. Without knowledge, therefore Denied.
  - i. Without knowledge, therefore Denied.

- j. Without knowledge, therefore Denied.
- k. Without knowledge, therefore Denied.
- l. Without knowledge, therefore Denied.
- m. Without knowledge, therefore Denied.
- n. Without knowledge, therefore Denied.
- o. Without knowledge, therefore Denied.
- p. Without knowledge, therefore Denied.
- q. Without knowledge, therefore Denied.
- r. Without knowledge, therefore Denied.
- s. Without knowledge, therefore Denied.
- t. Without knowledge, therefore Denied.
- u. Without knowledge, therefore Denied.
- v. Without knowledge, therefore Denied.
- w. Without knowledge, therefore Denied.
- x. Without knowledge, therefore Denied.
- y. Without knowledge, therefore Denied.
- z. Without knowledge, therefore Denied.
- aa. Without knowledge, therefore Denied.
- bb. Salerno denies that a sunshine violation  
occurred involving Salerno.
- cc. Without knowledge, therefore Denied.
- dd. Without knowledge, therefore Denied.
- ee. Without knowledge, therefore Denied.

- ff. Without knowledge, therefore Denied.
- gg. Without knowledge, therefore Denied.
- hh. Without knowledge, therefore Denied.
- ii. Without knowledge, therefore Denied.
- jj. Without knowledge, therefore Denied.
- kk. Without knowledge, therefore Denied.
- ll. Without knowledge, therefore Denied.
- mm. Without knowledge, therefore Denied.
- nn. Without knowledge, therefore Denied.
- oo. Denied that a Sunshine Violation occurred  
involving Salerno.
- pp. Without knowledge, therefore Denied.
- qq. Without knowledge, therefore Denied.
- rr. Without knowledge, therefore Denied.
- ss. Without knowledge, therefore Denied.
- tt. Without knowledge, therefore Denied.
- uu. Denied that a Sunshine Violation occurred  
involving Salerno.
- vv. Without knowledge, therefore Denied.
- ww. Without knowledge, therefore Denied.
- xx. Without knowledge, therefore Denied.
- yy. Without knowledge, therefore Denied.
- zz. Without knowledge, therefore Denied.

- aaa. Without knowledge, therefore Denied.
- bbb. Denied that a Sunshine Violation occurred involving Salerno.
- ccc. Without knowledge, therefore Denied.
- ddd. Without knowledge, therefore Denied.
- eee. Denied that a Sunshine Violation occurred involving Salerno.
- fff. Without knowledge, therefore Denied.
- ggg. Without knowledge, therefore Denied.
- hhh. Without knowledge, therefore Denied.
- iii. Without knowledge, therefore Denied.
- jjj. Denied that a Sunshine Violation occurred involving Salerno.
- kkk. Without knowledge, therefore Denied.
- lll. Without knowledge, therefore Denied.
- mmm. Denied that a Sunshine Violation occurred involving Salerno.
- nnn. Without knowledge, therefore Denied.
- ooo. Without knowledge, therefore Denied.
- ppp. Without knowledge, therefore Denied.
- qqq. Without knowledge, therefore Denied.
- rrr. Denied.
- sss. Without knowledge, therefore Denied.

ttt. Without knowledge, therefore Denied.

uuu. Without knowledge, therefore Denied.

vvv. Without knowledge, therefore Denied.

www. Without knowledge, therefore Denied.

xxx. Denied that a Sunshine Violation occurred  
involving Salerno.

yyy. Denied that a Sunshine Violation occurred  
involving Salerno.

zzz. Without knowledge, therefore Denied.

aaaa. Without knowledge, therefore Denied.

bbbb. Without knowledge, therefore Denied.

cccc. Without knowledge, therefore Denied.

dddd. Without knowledge, therefore Denied.

eeee. Without knowledge, therefore Denied.

ffff. Without knowledge, therefore Denied.

gggg. Without knowledge, therefore Denied.

hhhh. Without knowledge, therefore Denied.

iiii. Denied that a Sunshine Violation occurred  
involving Salerno.

jjjj. Without knowledge, therefore Denied.

kkkk. Without knowledge, therefore Denied.

llll. Denied that a Sunshine Violation occurred  
involving Salerno.

mmmm. Denied that a Sunshine Violation occurred  
involving Salerno.

nnnn. Without knowledge, therefore Denied.

oooo. Without knowledge, therefore Denied.

pppp. Without knowledge, therefore Denied.

qqqq. Without knowledge, therefore Denied.

rrrr. Without knowledge, therefore Denied.

ssss. Without knowledge, therefore Denied.

38. Without knowledge and therefore denied.

39. Without knowledge, therefore Denied.

40. Without knowledge, therefore Denied.

41. Without knowledge, therefore Denied.

42. Without knowledge, therefore Denied.

43. Without knowledge, therefore Denied.

44. Denied.

45. Denied.

46. Denied.

47. Denied.

48. Without knowledge and therefore denied.

49. Without knowledge and therefore denied.

50. Without knowledge and therefore denied.

51. Without knowledge and therefore denied.

WHEREFORE, Defendant, JOSEPH SALERNO, requests that this

action be dismissed as to him individually and that he be awarded attorney fees and costs.

**FIRST AFFIRMATIVE DEFENSE**  
**CURE**

If any Sunshine Violation occurred, it was cured.

**SECOND AFFIRMATIVE DEFENSE**

Any and all conversations referenced in the Third Amended Complaint were merely administrative or organizational matters and not sunshine violations.

**THIRD AFFIRMATIVE DEFENSE**

Any and all conversations referenced did not involve matters which were coming before the Board in the foreseeable future.

**FOURTH AFFIRMATIVE DEFENSE**

Any and all conversations were information-gathering and for mere fact finding purposes.

**FIFTH AFFIRMATIVE DEFENSE**

Defendant Salerno, at all times material to this suit, acted with a good faith belief that his actions were proper, and in compliance with the law.

**COUNT II-DECLARATORY JUDGMENT PURSUANT TO CHAPTER 86, BY**  
**CONSTRUING THE RIGHTS AND OBLIGATIONS OF THE PARTIES SET**  
**FORTH IN SECTION 119.07, FLA.STAT.**

Defendant, JOSEPH SALERNO, is not an individual Defendant in Count II and therefore will not file and answer to Count II individually.

**COUNT III-MANDAMUS IN ACCORDANCE WITH**  
**SECTIONS 119.07 and 286.011, FLA. STAT.**  
**(As to Trailer Estates, Jones, Vandermolen, and Salerno)**

Defendant, JOSEPH SALERNO, hereby moves to dismiss Count III as it fails to comply with the procedure for Writ of Mandamus.

**MOTION TO DISMISS COUNT IV-**  
**TEMPORARY AND PERMANENT INJUNCTIVE RELIEF**  
**(As to all Defendants)**

Pursuant to F.S. Civil Procedure 1.140(b), Count IV seeks injunctive relief against multiple parties and for multiple reasons. It is not proper to bring this claim for injunctive relief by lumping together unrelated claims. Further, the Plaintiffs have an adequate legal remedy in the Sunshine and Public Records laws. The request for injunction only serves to confuse the issues and is a duplication of the relief sought in other costs.

**NOTICE OF INTENT TO SEEK ATTORNEYS FEES**

Defendant, JOSEPH SALERNO, hereby gives notice of intent to seek fees and costs against Plaintiffs, pursuant to F.S. 286.011(4).

**JURY TRIAL DEMAND**

Defendant, JOSEPH SALERNO, hereby demands trial by jury on all issues so triable.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via U.S. Mail to those addresses on the attached service list this \_\_\_\_ day of August, 2010.

ROBERT E. TURFFS, P.A.

By: \_\_\_\_\_

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