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Reply to: Bradenton

September 22, 2010

Via Facsimile Only (941) 744-9691

Trailer Estates Recreation District Board of Trustees
c/o Mark P. Barnebey, Esquire
Kirk Pinkerton, P.A.
1301 6th Avenue West, Suite 102
Bradenton, Florida 34205-7435

RE: OFFER OF SETTLEMENT
MARY LOU SMITH and SHARON DENSON vs. TRAILER
ESTATES PARK AND RECREATION DISTRICT, et al.
Case No.: 2008 CA 11315 (LLW Matter Nos.: 3198-002 and 3778-001)

Dear Board of Trustees:

On behalf of my clients, Mary Lou Smith and Sharon Denson, we once again propose settlement in an effort to resolve this matter, save the District from having to incur further expense, and begin to repair a divided community. To that end we propose the following settlement terms:

In an effort to heal and unite the community

- 1) We, the Plaintiffs and the District through its Board, will draft a joint statement in the next 10 days for publication in the next Tribune, broadcast on Channel 95, and posting on the District's bulletin board. This statement will explain to the community that both the District and the Plaintiffs goals are and have always been focused on the community as a whole and we look forward to our community working together in the future. There is no cost to the District in creating a joint statement.

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In an effort to ensure transparency in government

- 2) The District agrees to adopt a policy to provide for the mandatory annual Sunshine and Public Records Laws training for all Trustees and the public records custodian. This mandatory annual Sunshine and Public Records Laws training may be presented by the District's counsel experienced in local government or other qualified person on the Sunshine, Public Records, and Ethics laws applicable to the District Board. This training will not be presented by a District employee or Trustee. There is no cost associated with the adoption of this policy and the training by District counsel should cost under \$1000.
- 3) The District agrees to adopt a policy mandating that the Chair, First Vice Chair, and Second Vice Chair attain certification as Certified District Officials. The Florida Association of Special Districts provides this certification after 32 hours of training in specified educational components at a cost to non-members of under \$500 per official. This will further educate District public officials on special districts and the laws associated with them.
- 4) The District agrees to employ a Certified District Manager, whether that is accomplished through a new hire, mere training of existing staff, or a volunteer resident who has been trained and is not a sitting Trustee. Again, the Florida Association of Special Districts provides this certification after training in specific educational components at a cost to non-members of approximately \$1500. Chairman Brauer stated at the Jan. 4th 2010, Board meeting that the District's legal counsel had mentioned that if you want to avoid Sunshine Law issues then hire a District Manager. It is time to heed that advice and arm the District with a trained individual who can see to the administrative items and leave the board to be the policy making body it was intended to be. A Certified District Manager will eliminate the Chairman from serving as a super trustee and restore governing equality among the 9 trustees.
- 5) The District agrees to join the Florida Association of Special Districts. This association serves as the Department of Community Affairs primary education and training arm to satisfy the educational requirements of Chapter 189 of the Florida Statutes. Its purpose is to ensure that elected boards and district managers comply with the Florida Statutes governing special districts. Membership in the association would provide access to a community of special districts and a source for free legal advice for some of the common issues we face. Trustee Cushman in April of this year asked about professional help without having to pay for it each time, and later Trustee Cole spoke of wanting

assistance that would not cost the District anything, this membership would answer those requests. The membership fee is between \$200-\$2000. Membership benefits include discounts on Certified District Official and Certified District Manager programs.

- 6) The District agrees to adopt a policy whereunder each year a portion of the Board's meetings, workshops, and some of each committee's meetings will be held during the evening to allow for more of our community to participate in its governmental functions. There is no cost to the District for the Board to adopt and implement such a policy.
- 7) Because we have so many trustees who are not year round residents and Trustees are unable to communicate with one another about actions and responsibilities that could come up before the Board without possible Sunshine Law implications, the District agrees to adopt a policy and procedure which describes who will conduct the duties of the trustee in the absence of such trustee. This policy will ensure that the community is properly served in the Sunshine in the absence of its public official. There is no cost to the District for the Board to adopt and implement such a policy.
- 8) The District agrees to provide to each of its Trustees, a District email account to be used by the Trustee to transact any and all District business with the community. The District will adopt a policy mandating that to the extent a Trustee wishes to use email to transact the business of the District, then that Trustee must use the District provided email account. All Trustees' District email addresses will be posted on the bulletin board, broadcast on Channel 95 and published in the Tribune, in an effort to provide the public with access to its public officials. The District's provision of email accounts for its public officials will help the District to ensure maintenance of those public records. There is no cost to the District for the Board to adopt such a policy and deminis, if any, costs for implementation.
- 9) The District will maintain as a public record a copy of all of its meetings and workshops that are televised or broadcast by the District. The District will adopt a policy wherein it provides for the recording of its meetings and workshops and the maintenance of such recordings.

- 10) The District will adopt a policy which set standards for the publication of material in the Tribune, website, bulletin boards, and closed circuit television channel. Programming will be maintained as a public record in accordance with the retention schedule established by the Division of Library and Information Services of the Department of State for the State of Florida. Alternatively, the District may appoint a communications committee to establish recommendations for these tasks. The establishment of standards for these publications will provide the community with clear insight as to how and what its government is publishing/broadcasting, and hopefully, eliminate concerns of discrimination or favoritism. There is no cost to the District for the Board to adopt and implement such a policy.
- 11) The District will adopt a policy prohibiting designated volunteer positions (i.e. webmaster, web administrator, kitchen manager, dockmaster, and the like) from simultaneously serving in both a designated volunteer position and as a Trustee or Trustee-elect. This policy will ensure that the Sunshine Law is not implicated should such a situation occur where one person was attempting to fulfill both those roles. There is no cost to the District for the Board to adopt and implement such a policy.
- 12) The District agrees to notice all Board meetings and workshops in accordance with the requirements in Fla. Stat. §189.417 and notice all of its committees' meeting at least 7 days prior to the committee meeting.

In an effort to conclude this lawsuit

- 13) The District and Plaintiffs will exchange General Releases drafted by their respective legal counsels and those legal counsel will provide these terms in a settlement agreement with the appropriate clauses for enforcement of such settlement agreement.
- 14) The District and Plaintiffs will jointly request that the Court vacate its order on the Motion for Sanctions.
- 15) In March of 2009, less than 4 months after the suit was filed, we sent a letter attempting to settle this matter. We never received any response from the District related to our settlement offer. At that time our attorney's fees were \$130,000. It is now one year and a half later. There have been two continuances of trial, both of which the District requested. At this time, our fees and costs are \$1,600,000. As residents of the Trailer Estates community, it has never been my clients' intention to put this kind of financial strain on the

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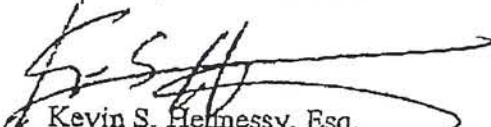
District. Moreover, their intention has been and remains to ensure that the District follow the law. To that end, and in exchange for this agreement, we are willing to settle this matter for \$1,600,000 paid in three equal payments of \$550,000, paid by October 31st of each year for three years. Alternatively, we are willing to settle this matter for \$1,400,000 paid in two equal payments of \$700,000, paid by October 31st of each year for two years. Or, if the District agreed to make a single payment by October 31, 2010, then we would be willing to settle this matter for \$1,200,000.

16) The Plaintiffs will dismiss the case (CA2008-CA-011315) with prejudice and each party bearing its own fees and costs except as stated in paragraph 15.

With the exception of the payment of attorneys' fees and cost, the requests of this offer would cost the District less than \$5,000. The terms of this offer help the District and provide the public with better insight and access to its government. Our offer is aligned with our goals of transparency and public participation in government. Throughout many public meetings, multiple board members have claimed that this suit was about nothing more than a shift of power. Those statements are completely false and as you should be able to see from this settlement offer as well as our earlier settlement offer, our goal is merely that the District comply with the Sunshine and Public Records laws and be an open government.

This offer of settlement will expire on September 28, 2010. We look forward to your response.

Sincerely,
LEWIS, LONGMAN & WALKER, P.A.



Kevin S. Hennessy, Esq.

JRC/jmd



LEWIS, LONGMAN & WALKER, P.A.
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Contact Person: Jennifer

TELECOPY COVER SHEET

Date: September 22, 2010 Client/Matter No. 3198-002/3778-001 Pages: 6
(No. of pages including coversheet)
To: Mark P. Barnebey, Esquire Telecopy Number: (941) 744-9691
Subject: Mary Lou Smith and Sharon Denson vs. Trailer Estates Park and Recreation District,
et al. - Case No.: 2008 CA 11315

Message:

Please see the attached Offer of Settlement.
Thank you.

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