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CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR MANATEE COUNTY, FLORIDA
CIVIL DIVISION B

MARY LOU SMITH and
SHARON DENSON,

Plaintiffs,

-vs-

CASE NO. 08 CA 11315

TRAILER ESTATES PARK AND
RECREATION DISTRICT, an
Independent special taxing district,

Defendant.
_____/

FINAL JUDGMENT

THIS CAUSE came before the Court on October 4, 2010 for non jury trial on Plaintiffs' Third Amended Complaint and Addenda against Trailer Estates Park and Recreation District. All previously named individual defendants were voluntarily dismissed prior to trial. At issue in Count I, the Plaintiffs seek a judgment pursuant to Florida Statute 86 declaring the parties' respective rights regarding a multitude of alleged violations of Florida's Government-in-the-Sunshine Law, Florida Statute 286.011 and Florida Constitution, Article I, Sec. 24. Count II requests Declaratory Judgment pursuant to Florida Statute 86 by construing the parties' rights regarding a number of alleged violations of Florida's Public Records Law, Florida Statute 119.07. Count III seeks Mandamus in accordance with Florida Statutes 119.07 and 286.011, and Count IV requests Injunctive Relief.

The Court has considered the testimony and documentary evidence presented , the arguments of counsel and the legal authority applicable to the case and being otherwise fully advised in the premises, finds and rules as follows:

SUNSHINE

The sunshine law was enacted to protect the public from "closed door" politics. All branches of state government, and all officers, agencies, boards, and employees, are made subject to the open meetings and public records requirements of Article I, Section 24. William Buzzett & Deborah Kearney, Commentary to 1992 Addition (1992 Committee Substitute for House Joint Resolutions 1727, 863 & 2035. The Court in Board of Public Instruction of Broward County v. Doran, 224 So.2d 693, 699 (Fla.1969), stated:

> The right of the public to be present and to be heard during all phases of enactments by boards and commissions is a source of strength in our country. During past years tendencies toward secrecy in public

> affairs have been the subject of extensive criticism. Terms such as managed news, secret meetings, closed records, executive sessions, and study sessions have become synonymous with "hanky panky" in the minds of public-spirited citizens. One purpose of the Sunshine Law was to maintain the faith of the public in governmental agencies. Regardless of their good intentions, these specified boards and commissions, through devious ways, should not be allowed to deprive the public of this inalienable right to be present and to be heard at all deliberations wherein decisions affecting the public are being made.

In this case, the Plaintiffs observed conduct that raised their suspicions that some or all of the trustees were running the park in disregard of open government. Their claims at the outset were met rudely. It was obvious that two or more trustees were meeting together, sometimes acting surreptitiously and other times ignorant of the laws applicable to them. This conduct is in diametric contradiction of the concept that open meetings instill confidence in government. "Every meeting should be a marketplace of ideas, so that the governmental agency may have sufficient input from the citizens who are going to be affected by the subsequent action of the municipality. The ordinary taxpayer can no longer be led blindly down the path of government * * * Government, more so now than ever before, should be responsive to the wishes of the public." Gradison, supra, 296 So.2d 473.

Although Plaintiffs have failed to prove violations that have not been cured, the District must have justifiably learned an extremely valuable and expensive lesson in Government in the Sunshine. The Court addresses specifically the following:

1. Plaintiff, Mary Lou Smith (Smith), is an individual who owns two separate properties in Trailer Estates Park in Manatee County, Florida. Plaintiff, Sharon Denson (Denson), is an individual who owns one separate property in Trailer Estates Park in Manatee County, Florida. Smith and Denson are sisters and each is a part time resident of the Park.

2. Trailer Estates Park and Recreation District (Trailer Estates) is an independent special taxing district located in Manatee County, Florida, with its current authority pursuant to Special Act, Chapter 2002-361, of the Laws of Florida (Charter). Trailer Estates is a 55 and older community consisting of 1285 individually owned mobile homes and lots, common areas including a marina, recreation facilities, and administration offices. Trailer Estates conducts its business through an unpaid, elected nine member Board of Trustees (Board) which requires a majority vote to take affirmative action. Trailer Estates historically employs one person in their office, TJ Miller, and now employs a part time assistant, primarily to address the multitude of public records requests and this litigation. Trailer Estates and its Board of Trustees and Committees may be small and comprised of mostly retired residents, but the volunteers are extremely active and they are required to comply with the Government in the Sunshine.

3. Several committees or volunteers are featured in this litigation. The Court will discuss the following:

   a. The Executive Committee or "Executive Board", also known as the Administrative Committee, was authorized by the By Laws and consisted of the Chairman and the First and Second Vice Chairmen of the Board of Trustees.
   b. The Architectural Review Committee (ARC), is created by the Deed Restrictions. The members are appointed by the Board of Trustees and ARC reports the granting or denial of permits issued in compliance with the Deed restrictions to the Board.
   c. The Deed Restrictions Committee
   d. The Seasonal Recreation or Entertainment Committee
   e. The Video Club and Website Committee
   f. Future Planning Committee

4. Trailer Estates, and its Board, are subject to Florida's Government in the Sunshine Laws as defined in Art. I, Sec. 24 of the Florida Constitution and Florida Statute 286.011.

5. Trailer Estates, and its Board, are subject to Florida's Public Records Laws as defined in Art. I, Section 24 of the Florida Constitution and Florida Statute 119.

6. Trailer Estates is an "agency" as defined by Florida Statute 119.011(2).

7. In 2005, Smith received a notice in the mail at her home in Michigan that she testified was from Trailer Estates. It was different from other deed restriction violation letters from Trailer Estates because it was very vague. Smith was selling the property and she couldn't understand the violation. She considered it a "citation" and requested that her sister, Sharon Denson, who was in Florida at the time, take care of the issue. Apparently the issue was resolved, Smith sold the property and Smith discarded her copy of the notice. In 2006, Smith made a public records request for the "citation", but Trailer Estates could never produce it, first saying it was unavailable and then saying it was not issued by them. The Court will address this further in this Order.

   In 2006, Smith received an invoice for rental of storage space for her boat and trailer which had tripled without notice to her and so began her questioning of government operations resulting in this lawsuit. When she returned to Florida in the spring of 2006, she and her sister went to the district's office and asked to speak to a Trustee about the issue. Smith testified that she spoke with Pam Cole, who was newly elected and Ms. Cole requested the assistance of Joe Bigley, who had been a trustee for years, for assistance. [Claim 37(d)] Smith argues that because the two trustees were trying to assist her it was a meeting and therefore a violation of the Sunshine Law. The Court does not agree. The mere presence of two trustees without a debate between them as to a matter on which foreseeable action may be taken by the Board is not a violation of the Sunshine Law. In Bennett v. Warden, 333 So. 2d 97 (Fla. 2nd DCA 1976), the Court explained that it would be

unrealistic, indeed intolerable, to require that every meeting, every contact, and every discussion with anyone from whom they would seek counsel to assist in acquiring the necessary information, data or intelligence needed to advise be a public meeting within the disciplines of the Sunshine Law. Neither the letter nor the spirit of the law requires it.

8. Plaintiffs alleged a multitude of claims that members of the Board of Trustees committed Sunshine violations because they were seen together talking and/or snippets of potential District business were overheard. The proof at trial was insufficient to find either when the conversations took place, who was present and said what to whom, or whether the subject matter was such that it could be determined to be one upon which foreseeable action may be taken by the Board. Plaintiffs also failed to prove that discussions actually took place outside of recorded board meetings or that the action complained of was not a trustee acting on his or her own. Board members may speak to each other on purely administrative matters. Claims 37(g), 37(h), 37(dd), 37 (mm), 37(tt), 37(uu), 37(vv), 37(ww), 37(xx), 37 (zz), 37(ddd), 37(hhh), 37(iii), 37(jjj), 37(kkk), 37(nnn), 37(qqq), 37(rrr), 37(ttt), 37(www), 37(xxx), 37(ffff), 37(jjjj), 37(nnnn), 37(rrrr)(ix), 44(i). The Court granted a directed verdict in favor of the District on 21 other claims for which no proof was presented. The Court also finds no evidence presented on claims 37(rr) and 37(ccc) as to conversations amongst board members. Plaintiffs did present a memo from one trustee stating that trustees and employees expressed concerns about releasing their cell phone numbers. The memo was addressed to the trustees and employees and was placed in the public records. It does not invite further discussion. Other memoranda were presented which were among trustees for information gathering purposes. Plaintiffs failed to prove any actual discussion on a specific date or with specific trustees in private. A trustee's position statement is not in violation of the Sunshine Law. AGO 89-23, AGO 96-35

9. The District By Laws attempted to exempt an Executive or Administrative Committee consisting of the Chair, the First Vice Chair and the Second Vice Chair from the requirements of the Sunshine Law. There were at least five executive meetings called by Mary Lou McNulty while she was the Chair. The meetings of the Executive Committee were not noticed to the public. These meetings would therefore be in violation of the Sunshine Law. Minutes of the Executive Committee were taken and filed with the public records. The minutes do not establish who attended the meetings but only the final recommendation of the committee. Bigelow v. Howze, 291 So.2d 645 (Fla. 2nd DCA 1974). The Executive Committee also conducted closed door interviews for candidates for the Board and for the hiring of District counsel. These interviews were not in violation of the Sunshine Law, because the committee was acting in a fact finding manner and the final decision making authority was maintained by the Board. The subject matters discussed at these otherwise illegal meetings were addressed at subsequent public meetings where the public had the opportunity to discuss the recommendations, but no objection was had. While ratification by the entire Board alone would not necessarily cure a violation, in this case, the Board has ratified the hiring of their attorney and other recommendations made illegally. The terms of the offending Board members have expired and the Amended By Laws eliminate the Executive or Administrative Committee. Consequently, any violation has been cured and is not likely to reoccur.

10. The District By Laws provided the schedule of when financial information was to be mailed to the residents. Therefore, the conversation that the Plaintiff overheard between trustees on this subject is not a matter which foreseeably would come before the Board or upon which the Board would take action. Hence, there is no violation of the Sunshine law. Claim 37(mmmm)

11. The Architectural Review Committee (ARC) is a committee created by the Deed Restrictions. The Deed Restrictions are contractual and are voted on by all property owners of Trailer Estates. ARC is empowered by this contract to issue building permits in accordance with the criteria stated within the Deed Restrictions. It does not act in an advisory capacity to the Board and its authority is not derived from or delegated to by the Board. The District Board of Trustees has no authority except to appoint the members of the ARC Committee. There is no right to appeal ARC's failure to issue permits to the Board. The deed restrictions do authorize the Board of Trustees to enforce the deed restrictions. Deed Restriction 1. News-Press Publishing Co., Inc. v. Carlson, 410 So.2d 546 (Fla. 2d DCA 1982); Town of Palm Beach v. Gradison, 296 So.2d 473 (Fla. 1974). [37(i), 37(l), 37(n), Even if trustees had met and discussed the denial of permits, that is not a matter upon which the Board would take action. The decision making authority is not derived from the Board of Trustees. Therefore, the Court finds no violation in such allegations 37(o), 37(p), 37(q). Plaintiffs also complain that the ARC acted as a "committee of one" in the approval or denial of the permits. This claim is proven as it was the practice to assign one member of ARC to review the applications. Any citizen whose denial of a permit by a single member of ARC would have a remedy. Plaintiffs do not claim that either of them applied for a permit and therefore they have no standing to request relief.

12. Plaintiffs complain that the minutes taken during a properly noticed Board Workshop where the District's attorney gave a presentation on the Sunshine Law is a violation of the Sunshine Law because the minutes were not sufficient. The Court finds no merit to this argument. FL AGO 82-47.

13. The Deed Restriction Committee became a standing committee in 2001. It met in October 2007 and January 2008 with the minutes reflecting that 2 trustees were in attendance. The Committee meetings were noticed; minutes were taken and retained in the public records. The minutes do not reflect actual discussion or debate between the 2 trustees. The vote record shows that the trustee/liaison did not vote as was the practice. 37(oo), 37(qq). The evidence fails to identify whether there was debate between sitting trustees. These are hardly clandestine meetings. They are noticed and open to the public. While it is true that the recommendations of the Deed Restriction Committee did come before the Board, no vote was taken. The ultimate decision of whether to change or amend the Deed Restrictions remains by contract with all the property owners.

14. The Seasonal Recreation Committee consists of a trustee and a group of volunteers. The trustee is responsible for arranging and organizing many of the recreational events that occur at the Park. The trustee meets with a group of volunteers to determine the mechanics of presenting such recreational activities. There is insufficient evidence to prove

that the Seasonal Recreation Trustee actually appointed a committee. The Plaintiff fails to prove violations of the Sunshine law. Claims 37(llll)

15. The Plaintiffs claim several overheard conversations between trustees that were administrative in nature and as such would not be in violation of the Sunshine law. AGO 81-88 explains that meetings held by officers solely in their capacity as departmental heads and merely for the purpose of coordinating administrative and operational matters for which a vote or other formal action by the governing body is neither required nor contemplated in the future, are not subject to the Government in the Sunshine Law. Claims 37(ooo), 37(rrrr)(ii), 37(rrrr)(iii), 37(rrrr)(viii), 37(rrrr)(x), 37(rrrr)(xvii).

16. As a matter of law, when Fred Hoch decided to resign his office in ARC, that decision was his alone to make. The resignation was effective upon submission. Smith v. Brantley, 400 So.2d 443 (Fla. 1981) In spite of the fact that trustees discussed the resignation outside of a meeting, the Plaintiffs' claim fails. Claim 37(rrrr)(xiv).

17. The Referendum Committee met 3 times during a one month period in 2006. Two trustees participated in these meetings. The meetings were not noticed nor opened to the public. Minutes were taken and filed in the public records. The purpose of the committee was to make recommendations to the Board on a procedure to initiate a referendum for voter action. The committee presented suggestions to the board. The Referendum Committee was not a decision making authority. The recommendations were placed on the agenda for public discussion at the properly noticed Board of Trustees meeting. The Court finds that the Referendum Committee is not subject to the Sunshine Act. Claim 37 (cccc)

18. The Plaintiffs claim that the Video Club violated the Sunshine law. The video club is not a committee, but a club. It does not derive its authority from the Board. The evidence established that the Trailer Estates Video Computer Club has its own by laws which state that it shall manage and operate the Television Closed Circuit System in accordance with established closed circuit television practices and guidelines set by the Board of Trustees. Plaintiffs failed to prove that the Board of Trustees directs or controls the Video Club's content. To the extent that the video club does record Board of Trustee meetings, those records do become matters of public record. Claim 37(oooo).

19. In 2006, the Chair received advice from counsel that only one Trustee should be present at committee meetings to avoid a possible violation of the Sunshine Laws. The Future Planning Committee met several times with multiple Trustee members present. In April 2007, three Trustees were present during a Future Planning Committee meeting when topics of discussion included the disaster plan and the Desears fence. These issues could foreseeably come before the Board for approval. The minutes do not establish that the Trustees actually discussed or debated the issues. The Policy and Procedures committee also met when more than one Trustee was present. From the minutes of these committees, the court finds that each committee is operating as an information gathering

committee and not subject to the Sunshine Act. Further, each Trustee who was present during such meetings is no longer a Trustee.

20. The Auditor Selection Committee was established pursuant to Florida Statute 218.391. The primary purpose is to assist the District in selecting an auditor to conduct annual financial audits required by law. The Auditor Selection Committee is clearly subject to Government in the Sunshine. One Trustee was appointed as liaison without voting privileges and the Treasurer of the Board and employees of the District were prohibited from membership on the committee. The Auditor Selection Committee met in February 2009 and two Trustees were again on the committee. The minutes demonstrate that the Committee is aware that it is subject to Government in the Sunshine and requirements of compliance were recited in the minutes. Plaintiffs' Third Amended Complaint and Addenda do not claim a specific violation, but presented the evidence to show a pattern of the District to permit multiple members of the Board to meet in possible violation of the Sunshine. While this conduct undermines the confidence of the public, there is insufficient evidence in this case to establish that the two trustees debated issues in an illegal meeting on matters which were foreseeably to come before the Board to establish a pattern of illegality.

PUBLIC RECORDS

Article I, Subsection 24(a), of the Florida Constitution and Chapter 119 , Florida Statutes, provide the right of every person to access any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except for those specifically exempted.

The legislative objective underlying the creation of Chapter 119 was to insure to the people of Florida the right freely to gain access to governmental records. The purpose for such inquiry is immaterial. Lorei v. Smith, 474 So.2d 1330 (Fla. 2nd DCA 1985).

Records are open for personal inspection and copying by any person and it is the duty of each agency to provide access to public records. The general purpose of the Public Records Act is to open public records so that Florida's citizens can discover the actions of their government. Every person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision of the custodian of the public records. The Public Records Law does not provide a specific time for an agency to comply with a public records request, the Florida Supreme Court has stated that the only permissible delay in producing records pursuant to Chapter 119, Fla. Stat. Is to provide the agency with "the limited reasonable time allowed the custodian to retrieve the record and delete those portions of the record the custodian asserts are exempt." Tribune at 1078. If there is an unreasonable or excessive delay in producing public records, the Court can find an unlawful refusal. Town of Manalapan v. Rechler, 674 So.2d 789 (Fla. 4th DCA 1996) Neither intentional wrongdoing nor ineptitude of the records custodian is an excuse. Office of the State Att'y for the Thirteenth Judicial Cir. V Gonzalez, 953 So.2d 759 (Fla. 2d DCA 2007).

The Plaintiffs and their attorneys have made numerous public records requests to Trailer Estates. Claims 62 and 65. The Court addresses only the following:

21. Plaintiff Smith made a public records request for the "Citation" she received from Trailer Estates regarding the property that she had for sale. Although she has not proven that the letter she received was in fact a "citation", she testified that she received some document and that it said Trailer Estates. T.J. Miller apparently knew something about the issue as she prompted Plaintiff Denson to the drainage ditch. The Court has weighed the evidence and finds that the Plaintiffs have failed to prove that the alleged Citation actually originated from the District. T.J. Miller testified that Trailer Estates did not issue citations, but did issue Letters of Violation of Deed Restrictions. The Court cannot find T.J. Miller's statement almost a year after the fact that she did not have time to go get the box containing violation letters as proof that the citation actually existed. Even if it did, it doesn't any longer and the District cannot produce something that it doesn't have. The Court is well aware of the fact that a citizen's purpose in requesting public records is not at issue, but the Plaintiffs were well aware at the time of the filing of the lawsuit that Trailer Estates could not produce the item. The Court cannot find a willful intentional refusal to produce the phantom citation. Hillier v. City of Plantation, 935 So.2d 193 (Fla. 4th DCA 2006).

22. The Plaintiffs also made public records requests for a letter Plaintiff Smith saw delivered to the Board during a public meeting. She testified that she saw Ms. McNulty tear the letter up in a meeting in 2006. Again, the Court does not see the legitimacy of a claim that the District violated the Public Records Law when there is no good faith belief that the document exists. Additionally, Plaintiffs made other requests for documents that they did not prove existed and consequently, their claims fail. Grapski v. City of Alachua, 31 So. 3rd 193 (Fla. 1st DCA 2010, Hillier, supra.

23. Plaintiffs claim the District failed to timely respond to a request to inspect a pet application. However, the evidence clearly showed that counsel for the District e-mailed Plaintiff's counsel the same day requesting time to research whether the information requested was privileged. The records were then produced within 5 days. This is clearly a reasonable response. Roberts v. News Press Pub. Co., Inc., 409 So.2d 1089 (Fla. 2nd DCA 1982).

24. Plaintiffs claim the District continues to withhold documents provided to the District by its legal counsel during the Executive Session in January 2009. The District timely raised an exemption under Florida Statute 286.011(8) in that the "shade" meeting concerned this litigation. In spite of the exemption, the Plaintiffs argued that because Mr. Vandermolen, who was then a member of the governing body of the District, participated in the meeting even though his name was omitted, the confidentiality of attorney-client communications was destroyed. This approach is far too technical to breach the sanctity of an attorney client privilege and the Court finds that the transcript of the January 5, 2009, Executive Session was properly withheld until the conclusion of this litigation.

25. Plaintiffs made a public records request for a copy of Trailer Estates' database. Plaintiffs were offered the information but not in the format they requested. T.J. Miller had received complaints from citizens about releasing personal data so she relied on the advice of counsel and ultimately released the information. She provided it in the computerized format in which it was stored by the District. This does not constitute a refusal or denial and the District is under no obligation to convert the information to the format the Plaintiffs preferred. Seigle v. Barry, 422 So.2d 63 (Fla. 4th DCA 1982). The data was ultimately provided to the Plaintiffs. The District currently has the information available in multiple formats.

26. Plaintiffs made a public records request on August 26, 2006 for the 2006 Budget Hearing Video. Much was made of whether the Plaintiffs asked only for the video and not audio tape, whether the District or the Video Club had possession of the video. The video was finally located and Trailer Estates Attorney Tom Shults hand delivered the copy in April 2009. The Court does not find that Trailer Estates intentionally refused to produce this item. The Court does not find the delay to be unreasonable under the circumstances of this case, but the Court does find the delay in locating the video to be excessive. Town of Manalapan v. Rechler, 674 So.2d 789 (Fla. 4th DCA 1996).

27. Plaintiffs claimed they were refused documents relating to articles published in the Tribune. Specifically, in August 2009, they wanted the Rants and Raves column from 2006 to "present and the date this column last ran". The evidence is clear that the column was discontinued in 2007. The Plaintiffs did not prove that the specific information requested existed on the date requested. (Claim 62g)

28. The Court finds that Plaintiffs failed to carry their burden of proof as to any claim not specifically addressed.

The public records requests by Plaintiffs were sustained, voluminous, substantial in breadth, and were at times simultaneous with requests for production in this litigation. There were originally requests without offer of payment or overpayment. One request by Plaintiff Smith stated that she had no intention of coming to the office to inspect the documents. The District has only one full time employee who was required to search for the documents, make sure they were reviewed for any appropriate exemption, oversee the examination of the documents and copy the documents that were requested by Plaintiffs or their attorneys. She was also responsible for her general office work and dealing with the residents who requested services. The District was required to close its office to the residents in order to answer the Plaintiffs requests. Documents were maintained in an unsophisticated manner and that caused it to be extremely burdensome to respond to Plaintiffs multiple requests. This is not an excuse, but can be considered in determining whether the District acted reasonably. Plaintiffs'

lawyers visited the office many times and their paralegal visited the office over 30 times to view documents. They each acknowledged that at times they were given access to far more documents than they actually requested. In fact, the requests were supplemented over time and thousands of documents were produced. It may be true that some documents were not produced timely because they were misfiled, misplaced, lost or never existed. The Court does not find that the District acted in bad faith or with malice or in any effort to hide or withhold information from the Plaintiffs or any of the residents.

MANDAMUS

Plaintiffs request a Writ of Mandamus ordering Trailer Estates to hold meetings concerning public business in publically noticed and open meetings in accordance with the Government in the Sunshine Law and ordering Trailer Estates to perform its nondiscretionary duty to maintain and produce records in accordance with the Public Records law.

To establish a cause of action for mandamus, the Plaintiffs must prove they have a clear legal right to performance of the acts requested, an indisputable ministerial duty required by law, and the lack of an adequate remedy at law.

The Court finds that Trailer Estates, its governing body and committees, are now keenly aware that they are subject to open government. The Board itself, as it currently exists, has acted within the Sunshine having properly noticed public meetings and keeping minutes. The fact that individuals who while they were Board members may have otherwise violated the Sunshine law is no longer at issue in this action as the individual defendants have been dismissed.

The Court further finds that to issue a writ ordering Trailer Estates to produce records that Plaintiffs have either failed to prove existed or were withheld improperly would be futile. Skeen v. D'Alessandro, 681 so.2d 712 (Fla. 2nd DCA 1995).

INJUNCTION

This Court has no hesitation in holding that injunctive relief is available upon an appropriate showing of a violation of FS 119. The impermissible withholding of documents otherwise required to be disclosed constitutes, in and of itself, irreparable injury to the person making the public records request. The purpose is to afford disclosure of information without delay to any member of the public making a request. Non disclosure prevents access to the information and is an injury not ordinarily compensable in damages.

Injunctive relief would be appropriate where there is a demonstrated pattern of non compliance together with a likelihood of future violations. Daniels v. Bryson, 548 So.2d 679 (Fla. 3rd DCA 1989) However, the court concludes that the Plaintiffs are not entitled to injunctive relief because the offending members of the Board, other than Joe Salerno, are no longer on the Board. The Board has had seminars in compliance with the Government in the Sunshine laws; it has changed the By Laws eliminating the Executive Committee, it has clarified the practices, and in the process of organizing the records. While there may have been past violations, there is no showing of a likelihood of future violations. An injunction will not be granted where it appears that the acts complained of have already been committed and there is no showing by the pleadings and proof that there is a reasonably well grounded probability that such course of conduct will continue in the future. City of Jacksonville v. Wilson, 27 So.2d 108 (1946).

The Court has acknowledged that some initial conduct of some of the trustees then in office was in violation of the Sunshine law. Nevertheless, subsequent board action at a public meeting should not be disturbed because the topics of the improper meetings came before the board and there was an opportunity for discussion or dissention. The Executive Committee has been abolished, the individual Trustees are no longer on the Board, single Trustees are assigned to committees, and the production of public records cannot be forced to be completed any faster than the one records custodian can work. Plaintiffs request is to instruct Trailer Estates to follow the law. This they are already required to do.

While the evidence clearly shows that there is a need for improvement in the maintenance of its records, it does not establish that Trailer Estates was a "reluctant public agency" that wrongfully denied access to its public records. Trailer Estates did not produce every item requested by Plaintiffs or their lawyers. They did not, however, ignore the requests. They opened their records for inspection each time they were requested to do so. The Court cannot find that the delays were unjustified under the facts of this case. The Court further finds that many of the requests for inspection occurred after the lawsuit was filed, consequently some of Plaintiffs' claims were not filed in attempt to gain public records and the records were produced as a result of this lawsuit.

It is, accordingly,

ORDERED AND ADJUDGED that judgment is rendered in favor of Trailer Estates and against the Plaintiffs.

DONE AND ORDERED at Bradenton, Manatee County, Florida, this 3 day of Nov., 2010.

JANETTE DUNNIGAN, CIRCUIT JUDGE

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