

1 IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR SARASOTA COUNTY, FLORIDA

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3 CITIZENS FOR SUNSHINE, INC.,
a Florida not-for-profit
4 corporation, and
ANTHONY LORENZO,

5

Plaintiffs,

6

vs.

Case No.:
2008 CA 8108 SC

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CITY OF VENICE, ED MARTIN,
8 SUZANNE LANG, JOHN K. MOORE,
JOHN SIMMONDS, NICHOLAS
9 CARLUCCI, ROBERT BARTANOWICZ,
SUSAN BALSINGER, PAUL HOLLOWELL,
10 and FRED HAMMETT,

11

Defendants.

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TWO EXCERPTS FROM THE
DEPOSITION OF MARTIN P. BLACK

14

15 (RE: Answers referencing "lunch" and "parking lot")

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Taken on Behalf of the Plaintiffs

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DATE TAKEN: October 9, 2008

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TIME: Excerpt 1: 9:39 - 9:41 a.m.
Excerpt 2: 9:51 - 9:53 a.m.

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PLACE: Sclafani Williams
Court Reporters, Inc.
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Sarasota, Florida

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Stenographically Reported by:
Donna L. Peterson
Registered Diplomate Reporter
Certified Realtime Reporter

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1 APPEARANCES:

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3 Counsel for Plaintiffs:

4 ANDREA FLYNN MOGENSEN, ESQUIRE
5 The Law Office of Andrea Flynn Mogensen, P.A.
6 200 South Washington Boulevard, Suite 5
7 Sarasota, Florida 34236

7 Counsel for Defendants City of Venice, et al.:

8 DALE SCOTT, ESQUIRE
9 Bell, Roper & Kohlmyer, P.A.
10 2707 East Jefferson Street
11 Orlando, Florida 32803

11 Counsel for Defendant Moore:

12 A. LAMAR MATTHEWS, JR., ESQUIRE
13 Matthews, Eastmoore, Hardy,
14 Crauwels & Garcia, P.A.
15 1777 Main Street, Suite 500
16 Sarasota, Florida 34236

15 Also Present:

16 John K. Moore
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EXCERPTED PROCEEDINGS

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2 MARTIN P. BLACK, called as a witness by the
3 Plaintiffs, having been first duly sworn, testified as
4 follows:

5 (Excerpts from Direct Examination by Ms. Mogensen)

6 (Excerpt No. 1)

7 BY MS. MOGENSEN:

8 Q. Let me rephrase that so it will be a little
9 easier to answer.

10 Did you ever observe any instructions --
11 informal instructions, conversational instructions -- to
12 the new members of the city council since the election
13 in November 2007?

14 A. Yes.

15 Q. Can you tell me about that, please.

16 A. I recall, as an example, during a break either
17 the last week of November, first week of December, there
18 was a series of workshops that had been scheduled on a
19 pending rezoning case. During the course of that day,
20 took a lunch break.

21 There were several members of council, myself,
22 city attorney, and clerk who were in Conference Room
23 106. And during the course of that lunch break, the
24 city attorney had to remind council members that they
25 were in a quasi-judicial hearing subject to public

1 sunshine law requirements and should not discuss or
2 continue to discuss the project during the break.

3 Q. Okay. And, I'm sorry, when was that?

4 A. Either the last week of November or the first
5 week of December in 2007.

6 Q. And that was during a break in the meeting,
7 right?

8 A. That was actually -- there were -- there was a
9 work -- all-day workshop on Tramonto Vista Park and
10 Traponti, which is the name of the project going through
11 the rezoning. There was a lunch break midday. Not all
12 the members were in attendance. I know, as an example,
13 I recall that Mr. Zavodynik had a meeting outside of the
14 city hall so he actually did not stay for the lunch.
15 And I do not recall whether Mr. Tacy or Ms. Noren were
16 present. I believe all the other council members were
17 there, though.

18 Q. Do you recall who was involved in the lunch
19 meeting that became -- that came to light after the
20 lunch break?

21 A. Myself, the city attorney, Ms. Stelzer.
22 Mr. Moore was there. Ms. Lang. Ms. Martin -- excuse
23 me, Mr. Martin. I believe Mr. Simmonds was there. But
24 it's a little hazy about the group.

25 Q. Okay. And this response came to a question

1 that I asked you about informal training or let's call
2 it reminding about duties under the sunshine law and the
3 public records law. Please tell me what was
4 communicated if you remember.

5 A. The reason that particular event is highlighted
6 in my mind is Bob Anderson --

7 I don't -- rarely see him get flustered. He
8 was pretty flustered on that day. On several occasions
9 either myself or he had to ask council members and
10 remind them they could not discuss the project. At one
11 point he asked whether himself and the staff should go
12 out in the parking lot if they were going to continue to
13 have the discussions despite the interventions to ask
14 them to cease. (End of first excerpt)

15

16 (EXCERPT NO. 2)

17 BY MS. MOGENSEN:

18 Q. Do you remember who was engaged in that
19 particular meeting? And I don't mean the workshop. I
20 mean the lunch meeting that drew the attention of the --

21 MR. SCOTT: Object to the form.

22 THE WITNESS: The lunch break, I think I
23 expressed previously on the record who I could
24 recall was there. It was Sue Lang, Ed Martin,
25 Mr. Moore, myself, Bob Anderson as the city

1 attorney, Lori Stelzer. And I believe Mr. Simmonds
2 was there. I can't recall whether or not
3 Ms. Simmonds was there. I believe Mr. Casey was
4 not, as far as my recollection at that time. And
5 Mr. Zavodynik also was not there.

6 BY MS. MOGENSEN:

7 Q. And maybe I am asking the question inartfully.
8 I understand you to be saying those were the people that
9 were there for the corrective conversation. Is that
10 what you are saying?

11 A. But also they are the same individuals who were
12 having that discussion at the time.

13 Q. Okay. Do you remember --

14 A. I mean, you are sitting around a table with 15
15 or 14 chairs, conversation over lunch. Everyone was
16 there. I mean, it wasn't like there were two people off
17 to the side not listening or participating in the
18 conversation. So --

19 Q. Okay.

20 A. -- from my perspective --

21 Q. I didn't understand. I didn't understand if a
22 certain group was out in the hallway talking and someone
23 else came out and said "Hey."

24 A. No. It was around the lunch table. And the
25 discussion started across the meal, and that's when the

1 city attorney then had to intervene on several
2 occasions.

3 Q. Okay. And I think you already mentioned that
4 the city attorney had some frustration with that. My
5 question is: How many times would you say this
6 intervention was necessary?

7 A. That day?

8 Q. That day.

9 A. Two or three times. Certainly more than once.

10 Q. What I am trying to get at is: Who actually
11 was having the discussion and who was just present? In
12 other words, who was having the city business discussion
13 during the lunch break, and who was either doing nothing
14 or saying, "You can't be doing that"?

15 A. I recall that the participants included all of
16 the council members that I can recall being there. I
17 mean, I don't recall that anyone sat quietly. And I
18 can't attribute reasons for Bob's frustration, but I
19 know he and I shared that; that this wasn't, you know,
20 one or two off to the side. It was pretty flagrant.

21 And that led him to make the comment about,
22 "Should we just go out in the parking lot if you are not
23 going to stop." That's, from my perspective, a pretty
24 serious comment by the attorney. (End of second
25 excerpt)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA
COUNTY OF SARASOTA

I, Donna L. Peterson, Registered Diplomate Reporter and Certified Realtime Reporter, do hereby certify that I was authorized to and did report in Stenotypy and electronically the foregoing proceedings and evidence in the captioned case and that the foregoing pages constitute a true and correct transcription of my recordings thereof.

IN WITNESS WHEREOF, I have hereunto affixed my hand this 10th day of October, 2008, at Sarasota, Sarasota County, Florida.

Donna L. Peterson



Donna L. Peterson, RDR, CRR
SCLAFANI WILLIAMS COURT REPORTERS, INC.