

(The decision of the Florida District Court of Appeal is referenced in the Southern Reporter in a table captioned 'Florida Decisions Without Published Opinions.')

District Court of Appeal of Florida,  
Second District

**Buccaneers Stadium Limited Partnership, now  
known as Buccaneers Football  
Stadium Limited Partnership, Buccaneers  
Stadium Corporation, a Delaware  
Corporation, Buccaneers Limited Partnership,**

v.  
**Hillsborough County, Florida, Tampa Sports  
Authority**

**NOS. 2D99-457, 2D99-1040**

April 12, 2000

Appeal From: Cir.Ct. (Hillsborough)

Disposition: Aff.

END OF DOCUMENT





St. Pete Times 9/21/00

**Bucs must pay \$47,500  
for guarding records**

TAMPA — The Tampa Bay Buccaneers must pay local government about \$47,500 for refusing to turn over public records last year.

Hillsborough Circuit Judge Gasper Ficarrotta ordered the Bucs to give Hillsborough County government \$32,500 and the Tampa Sports Authority about \$15,000 to pay for government lawyers who sued the Bucs over the records.

The County Commission and the Sports Authority sued the Bucs last year when the team refused to produce records that show how it makes money from publicly financed Raymond James Stadium.

**IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT  
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA  
CIVIL DIVISION**

**HILLSBOROUGH COUNTY, FLORIDA,**  
a political subdivision of the State of  
Florida and the **TAMPA SPORTS**  
**AUTHORITY**, a public agency politic  
and corporate,

**Plaintiffs,**

**v.**

**CASE NO.: 99-0321  
DIVISION: F**

**BUCCANEERS STADIUM LIMITED PARTNERSHIP**  
now known as **BUCCANEERS FOOTBALL**  
**STADIUM LIMITED PARTNERSHIP** and any of its  
successors, grantees or assignees in interest and  
**BUCCANEERS STADIUM CORPORATION**,  
a Delaware corporation, its general partner, and  
**BUCCANNERS LIMITED PARTNERSHIP**,

**Defendants.**

---

**ORDER**

**THIS CAUSE** came before the Court for hearing on January 20, 1999 and February 5, 1999, upon Plaintiffs' Amended Complaint and Request for Expedited Hearing filed January 20, 1999 ("Amended Complaint"); Defendants' Motion to Dismiss or Strike Hillsborough County, Florida and Buccaneers Limited Partnership From the Amended Complaint received January 22, 1999 ("Motion to Dismiss"); and Defendants' Answer and Defenses to Amended Complaint and Request for Expedited Hearing and Motion for Judgment on the Pleadings received January 22, 1999 ("Motion for Judgment on the Pleadings"). The Court having considered Plaintiffs' Amended Complaint, the aforementioned Motions; Plaintiffs' Memorandum of Law in Support of Amended Complaint and

Request for Expedited Hearing submitted January 26, 1999; Defendants' Memorandum of Law submitted January 29, 1999; Plaintiffs' Memorandum of Law in Response to Defendants' Memorandum of Law submitted February 2, 1999; the **Stadium Agreement By and Between the Tampa Sports Authority and Buccaneers Stadium Limited Partnership** ("Stadium Agreement"); the **Sublicense Agreement** by and between Buccaneers Stadium Limited Partnership and Buccaneers Limited Partnership; the **8 Seat Luxury Suite License Agreement** by and between Buccaneers Limited Partnership and unnamed third party licensees; the arguments of counsel; the case law submitted by the parties and the court file, the Court having conducted its own research, and being otherwise fully advised in the premises, hereby finds as follows:

#### FINDINGS OF FACT

Plaintiff, Tampa Sports Authority ("Authority"), owns, operates and maintains Raymond James Stadium ("Stadium"), which was built using public funds. The Authority is a public agency politic and corporate, which was established by Chapter 96-520, Laws of Florida, for the purpose of planning, developing, promoting, and maintaining a comprehensive complex of sports and recreation facilities for the use and enjoyment of the citizens of Tampa and Hillsborough County, Florida. The purpose of the Authority is declared to be a public purpose. See Ch. 96-520, § 2, at 210, Laws of Fla. The Authority has general powers in which it is authorized "[t]o acquire...all property...necessary, desirable, or convenient for the purpose of this act and to lease or rent all or any part thereof and to exercise all of its powers and authority with respect thereto." See Ch. 96-520, § 5(f), at 210, Laws of Fla. The Authority is also authorized "[t]o lease, rent, license, or contract for the operation of any part of any of the sports and recreational facilities of the Authority...and to lease, rent, license, or contract for the operation or use of any part of its facilities by private or public users



for any lawful purpose.” (*emphasis added*) See Ch. 96-520, § 5(j), at 210, Laws of Fla.

Plaintiff, Hillsborough County, Florida (“County”) is a political Subdivision of the State of Florida.

Defendant, Buccaneers Stadium Corporation (“BSC”), is the general partner of Defendant, Buccaneers Stadium Limited Partnership (now known as Buccaneers Football Stadium Limited Partnership) (“BSLP”). BSC contracted with the Authority to form the Stadium Agreement dated August 28, 1996. Pursuant to Section 11(a)-(d) of the Stadium Agreement, BSC has the right to sublicense any of the Stadium’s seats and Luxury Suites.

BSC subsequently contracted with Defendant, Buccaneers Limited Partnership (“BLP”) for “Stadium Use Rights”, which included the right to sublicense the Luxury Suites. BLP then sublicensed Luxury Suites to unnamed third parties (collectively referred to as “Third Party Licensees”).

The Court specifically finds that BLP was a signatory to the Guaranty to the Stadium Agreement. In its Guaranty, BLP “unconditionally and irrevocably guarantee” the “full and faithful performance” by BSLP of “each and every covenant, duty and obligation to be performed” under the Stadium Agreement. Moreover, regarding the Sublicense Agreement, Mr. Brian Glazer signed on behalf of BSLP (sublicensor) as its Vice President and Mr. Joel Glazer signed on behalf of BLP as its Vice President.

## CONCLUSIONS OF LAW

Plaintiffs' Amended Complaint is before this Court pursuant to Chapter 119, Florida Statutes, Public Records Act. Plaintiffs' request that this Court enforce the provisions of Chapter 119, Florida Statutes, and order Defendants to provide complete, executed and unredacted copies of those agreements or documents identified in Section 11 of the Stadium Agreement. Defendants' have requested that the Court dismiss Plaintiffs' Amended Complaint and/or grant a judgment in their favor.

### I. Defendants' Motion to Dismiss the County and BLP From Plaintiffs' Amended Complaint.

Both the County and BLP are proper parties to this action. Florida Statutes section 119.07(1)(a) provides in relevant part, "[e]very person who has custody of a public record shall permit the record to be inspected and examined by any person desiring to do so, at any reasonable time, under reasonable conditions". § 119.07(1)(a), Fla. Stat. (Supp. 1999).

Regarding the County, Defendants' contend that the County "is not a proper party plaintiff to this lawsuit as they are not a party to the Stadium Agreement... nor a named third-party beneficiary thereof" and are not "in contractual privity with BLP". However, Defendants' argument fails as the County is "any person" who is allowed to seek public records under Chapter 119, Florida Statutes. See *Lorei v. Smith*, 464 So. 2d 1330, 1332 (Fla. 2d DCA 1985); *News-Press Publishing Co., Inc. v. Gadd*, 388 So. 2d 276, 278 (Fla. 2d DCA 1980).

With respect to BLP, Defendants' assert that BLP is an improper party defendant to this cause because BLP is not a signatory on or party to the Stadium Agreement. Defendants' argument can not stand because whether or not BLP "is a person who has custody of a public record" is the very



issue that must be considered by this Court, not contractual privity. Section 119.07(1)(a) imposes a duty of disclosure upon every person who has custody of a public record. *Puls v. City of Port St. Luce*, 678 So. 2d 514 (Fla. 4th DCA 1996). As such, this Court must determine whether certain records maintained by BLP are public records, which will be addressed below, and therefore subject to disclosure pursuant to Chapter 119, Florida Statutes.

The Court finds that the County is a proper plaintiff and BLP is a proper defendant to this cause. Defendants' Motion to Dismiss is hereby denied.

## II. Defendant's Motion for Judgment on the Pleadings.

Defendants have requested a judgment on the pleadings pursuant to Florida Rule of Civil Procedure 1.140(c). Defendants assert in their Motion for Judgment on the Pleadings that BLP is not a signatory to the Stadium Agreement, BLP is not in contractual privity with either Plaintiffs, BLP is a private entity whose records are not within the ambit of section 119.011(1), Florida Statutes and BLP is not an "agency" as defined under section 119.011(2), Florida Statutes.

As stated above, ignoring for the moment BLP's execution of the Guaranty, contractual privity and signatory status has no relevance to this case or the issues to be decided by the Court. Rather, the Court must only determine whether certain records maintained by BLP are subject to disclosure as "public records" within the contemplation of Chapter 119, Florida Statutes.

Defendants' Motion for Judgment on the Pleadings is hereby denied.

## III. Plaintiffs' Amended Complaint.

Plaintiffs are proceeding under Chapter 119, Florida Statutes, in which they request the Court order Defendants to provide complete, executed and unredacted copies of those agreements or documents identified in Section 11 of the Stadium Agreement. Specifically, Plaintiffs' have requested

any and all copies of the **8 Seat Luxury Suite License Agreements** entered into between BLP and any Third Party Licensees. Defendants' argue that BLP, a private entity, is not required to disclose the requested documents because BLP is not an "agent" of the Authority nor is it "acting on behalf of any public agency".

Section 119.011 defines "public records" and "agency" as follows:

"Public records" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency. § 119.011(1), Fla. Stat. (Supp. 1999).

"Agency" means...any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency."  
§ 119.011(1), Fla. Stat. (Supp. 1999).

Thus, the question before this Court is whether, as a matter of law, BLP was acting on behalf of the Authority through the Sublicense Agreement with BSC. The Court finds as a matter of law that the records sought by Plaintiffs are public records and subject to the mandated disclosure of Chapter 119, Florida Statutes.

The Supreme Court of Florida adopted the "totality of the circumstances" test to determine if private entities are subject to the Public Records Act. The Supreme Court of Florida also noted that because the relevant factors and circumstances vary from case to case, the factors listed were not intended to be all-inclusive. *News and Sun-Sentinel v. Schwab, et al.*, 596 So. 2d 1029, 1032 (Fla. 1992).

The Court has reviewed the factors set forth in *News and Sun-Sentinel v. Schwab* and finds under the totality of the specific circumstances of this case that finds that BLP was acting on behalf of the Authority and the citizens of Hillsborough County when it transferred any interest in this public property. See *Memorial Hospital-West Volusia Inc. v. News-Journal Corp.*, No. 90,835 ( Fla. Jan. 21, 1999); *Id.*; *Booksmart Enterprises, Inc. v. Barnes & Noble College Bookstores*, 718 So. 2d 227 (Fla. 3d DCA 1998); *Harold v. Orange County, Fla.*, 668 So. 2d 1010 (Fla. 5th DCA 1996); *Times Pub. Co. v. City of St. Petersburg*, 558 So. 2d 487, 492 (Fla. 2d DCA 1990). The Court further finds from the record evidence that BSC and BLP have devised a scheme, plan and design, not merely to avoid the Public Records Act of this state, but in fact, to evade it.

Moreover, the basic premise of the Public Records Act is that all state, county and municipal records in Florida are open to public inspection and examination unless specifically exempted by statute. *Tribune Co. v. Public Records*, 493 So. 2d 480, 483 (Fla. 2d DCA 1986). The right to access public documents is virtually unfettered, save only the statutory exemptions designed to achieve a balance between an informed public and the ability of the government to maintain secrecy in the public interest. *Times Pub. Co.*, 558 So. 2d at 492; *Lorei*, 464 So. 2d at 1332. Defendants have not asserted that they are entitled to a statutory exemption, nor do any of the exceptions enumerated in section 119.07, Florida Statutes exist in this case. The legislature has balanced the individual's right to privacy and the public's right of access to public records by creating the various exemptions from public disclosure contained in section 119.07, Florida Statutes. *Wallace v. Guzman*, 687 So. 2d 1351 (Fla. 3d DCA 1997). Consequently, this Court will not infer or construe an exemption where the legislature has refused to create one. See *Memorial Hospital-West Volusia, Inc. v. News-Journal Corp.*, No. 90,835 ( Fla. Jan. 21, 1999).



Finally, when in doubt the courts should find in favor of disclosure rather than secrecy. *Tribune Co.*, 493 So. 2d at 483. The Public Records Act is to be liberally construed in favor of "open government" to the extent possible in order to preserve our basic freedom, without undermining significant governmental functions. *Id.*

The Court finds as a matter of law that the records sought by Plaintiffs are public records which are therefore subject to the mandated disclosure of Chapter 119, Florida Statutes. It is therefore

**ORDERED AND ADJUDGED:**

1. Defendants', BUCCANEERS STADIUM LIMITED PARTNERSHIP now known as BUCCANEERS FOOTBALL STADIUM LIMITED PARTNERSHIP and any of its successors, grantees or assignees in interest and BUCCANEERS STADIUM CORPORATION, a Delaware corporation, its general partner, and BUCCANEERS LIMITED PARTNERSHIP, Motion to Dismiss or Strike Hillsborough County, Florida and Buccaneers Limited Partnership From the Amended Complaint is hereby denied.

2 Defendants', BUCCANEERS STADIUM LIMITED PARTNERSHIP now known as BUCCANEERS FOOTBALL STADIUM LIMITED PARTNERSHIP and any of its successors, grantees or assignees in interest and BUCCANEERS STADIUM CORPORATION, a Delaware corporation, its general partner, and BUCCANEERS LIMITED PARTNERSHIP, Motion for Judgment on the Pleadings is hereby denied.

3. Plaintiffs', HILLSBOROUGH COUNTY, FLORIDA and TAMPA SPORTS AUTHORITY, Amended Complaint and Request for Expedited Hearing shall be, and is the same, hereby granted. Defendants', BUCCANEERS STADIUM LIMITED PARTNERSHIP

now known as BUCCANEERS FOOTBALL STADIUM LIMITED PARTNERSHIP and any of its successors, grantees or assignees in interest and BUCCANEERS STADIUM CORPORATION, a Delaware corporation, its general partner, and BUCCANEERS LIMITED PARTNERSHIP, shall produce to Plaintiffs, HILLSBOROUGH COUNTY, FLORIDA and TAMPA SPORTS AUTHORITY, complete, executed and unredacted copies of those agreements or documents identified in Section 11 of the Stadium Agreement, which include any and all of the 8 Seat Luxury Suite License Agreements, within 48 hours from the date of this Order.

4. The Court hereby reserves jurisdiction of this cause to determine the parties' claims of entitlement to attorney's fees and costs pursuant to § 57.105, Florida Statutes as well as § 119.12, Florida Statutes, and to grant such additional relief as the Court may deem just and proper.

**DONE AND ORDERED** in Chambers at Tampa, Hillsborough County, Florida, this

\_\_\_\_\_ day of February, 1999.

ORIGINAL SIGNED

FEB 05 1999

**GREGORY P. HOLDER** **GREGORY P. HOLDER**  
**CIRCUIT JUDGE** **CIRCUIT JUDGE**

copies furnished to:

Emiline C. Acton, Esquire  
Donald A. Gifford, Esquire  
John Van Voris, Esquire  
Arnold D. Levine, Esquire