IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

Case No. 502008CA027882 "DIV. AA"

FAN LOZMAN,

Plaintiff(s),

vs.

CITY OF RIVIERA BEACH,
et al.,

Defendant(s).
_____/

ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

This matter came before the Court on the Defendants' Motion for Summary Judgment. A hearing was conducted on the Defendants' Motion on December 3, 2010. The Court has reviewed the submissions of the parties, and has heard the argument of counsel. Upon consideration, the Court makes the following findings.

The issue in this case is whether reasonable notice was given to the public of a special meeting of the Riviera Beach City Council held on September 15, 2008 at 4:00 p.m. The meeting was called to discuss, and approve, final revisions to a severance agreement with the outgoing City Manager, William E. Wilkins. The material facts in this case are not in dispute. The legal significance of the undisputed facts is, however, very much in dispute.

The Plaintiff has sued the Defendants for violation of Florida's Sunshine Law, Fla. Stat. §286.011. As interpreted by the courts, Florida's Sunshine Law requires "reasonable notice" of all public meetings. While it is clear that reasonable notice is

required, no bright line rule has been established, or adopted, to determine what is, and what is not, reasonable.

The City of Rivera Beach first gave notice of the meeting on Friday September 12, 2008 sometime shortly after 4:17 p.m. Consistent with regular practice, the City Clerk's office posted notice of the special meeting outside City Hall in an enclosed bulletin board. The notice was also posted on the sliding door of City Hall. The notice was also sent via facsimile to the Palm Beach Post. Notice of the meeting was also posted on the City's website and on Channel 18, the City's local television station.[1]

The notice given must have had some affect on the public. The meeting on September 15 was attended by the press and various members of the public. Indeed, the Plaintiff himself was in attendance at the meeting.

The Defendants assert that notice on a Friday of a meeting on Monday is reasonable in light of the methods used by the City to provide notice, and as evidenced by the attendance of the public and the press at the meeting. Plaintiff asserts that the intervening weekend should not be considered in determining whether the notice was reasonable and that the true notice given was less than 24 hours.

Neither side has presented the Court with a controlling appellate decision and there are only a few cases which even address the issue of reasonable notice. In *Yarbrough v. Young*, 462 So.2d 515 (Fla. 1st DCA 1985), three days notice was found to be reasonable under the circumstances presented by the case. In *Rhea v. City of*

[1] The one disputed factual issue is whether the notice was actually posted on the website. This disputed fact is not material to the issue of whether reasonable notice was given and, because this fact is disputed, the Court will analyze the notice assuming that it was not posted on the City's website.

Gainesville, 574 So.2d 221 (Fla. 1st DCA 1991), 90 minutes notice was held to be unreasonable.

The facts in this case must closely resemble the facts in *Yarbrough*. While *Yarbrough* did not involve an intervening weekend, the notice give was similar. Moreover, the court in *Yarbrough* found it significant that the notice given was effective in that the meeting was attended by the media and by all of the commissioners except one. Here, the notice was likewise effective as the special meeting was attended by the media and members of the public, including the Plaintiff. Under the undisputed facts of this case, the Court finds that that the notice was reasonable and was not a violation the Sunshine Law.

Based on the foregoing, it is hereby,

ORDERED AND ADJUDGED that the Defendants' Motion for Summary Judgment in GRANTED..

DONE AND ORDERED in Chambers, at West Palm Beach, Palm Beach County, Florida this 8th day of December, 2010.

JUDGE GLENN D. KELLEY
CIRCUIT COURT JUDGE

Copies furnished to:

Fane Lozman, 2913 Avenue F, Riviera Beach, Florida 33404

Christy Goddeau, Esq., 701 Northpoint Parkway, Suite 209, West Palm Beach, Florida 33407

Florida Fourth District Court of Appeal Docket

Case Docket

Case Number: 4D11-27

Final Civil Other Notice from Palm Beach County

FANE LOZMAN vs. CITY OF RIVIERA BEACH, etc., et al.

Lower Tribunal Case(s): 502008CA027882XXXXMB

List of Abbreviations | Printer Friendly View

Date Docketed	Description	Date Due	Filed By	Notes
01/05/2011	Notice of Appeal Filed		Fane Lozman , Pro Se - Appellant	
01/05/2011	order appealed			
01/12/2011	Acknowledgment Letter			
01/12/2011	Case Filing Fee			
02/16/2011	Motion To Relinquish Jurisdiction		Fane Lozman , Pro Se - Appellant	T-
03/15/2011	Aplnt to Obtain Final Order-Per Dobrick	04/14/2011		30 days
03/31/2011	ORD-From Circuit Court			FINAL SUMMARY JUDGMENT
04/01/2011	Amended Notice of Appeal		Fane Lozman , Pro Se - Appellant	CERT. COPY FILED 3/31/11
04/18/2011	Received Records			TWO (2) VOLUMES (NO CD ROM REQUIRED)
04/28/2011	Mot. for Extension of time to file Initial Brief		Fane Lozman , Pro Se - Appellant	
05/02/2011	Order denying EOT w/out prejudice 9.300(a)			
05/06/2011	Motion Supplemental Record & Eot For Brief		Fane Lozman , Pro Se - Appellant	
05/10/2011	ORD-Grant Supplemental ROA & EOT for Brief	05/30/2011		14 DAYS THEREAFTER FOR INITIAL BRIEF
05/25/2011	Supplemental Records			ONE (1) VOLUME (NO CD REQUIRED)
06/01/2011	Request for Oral Argument			PS Fane Lozman
06/01/2011	Initial Brief on Merits		Fane Lozman , Pro Se - Appellant	(4)
06/30/2011	Mot. for Extension of time to file Answer Brief		Christy L. Goddeau 94072, Appellee	
07/07/2011	Order Granting EOT for Answer Brief	08/24/2011		60 DAYS TO 8/24/11
08/26/2011	Appellee's Answer Brief		Christy L. Goddeau 94072, Appellee	(4)
08/29/2011	Motion For Attorney's Fees		Christy L. Goddeau 94072, Appellee	
09/01/2011	Mot. for Extension of Time to File Reply Brief		Fane Lozman , Pro Se - Appellant	(M) *AND*
09/01/2011	Motion for Extension of Time to File Response		Fane Lozman , Pro Se - Appellant	(M) TO MOTION FOR ATTY'S FEES.
09/07/2011	ORD-Reply Brief to be Served	10/13/2011		30 DAYS TO 10/13/11
09/07/2011	Grant EOT to file Response	10/13/2011		30 DAYS TO 10/13/11 TO MOTION FOR

				ATTY'S FEES
10/12/2011	RESPONSE		Fane Lozman , Pro Se - Appellant	TO MOTION FOR ATTORNEY'S FEES
10/12/2011	Appellant's Reply Brief		Fane Lozman , Pro Se - Appellant	(4)
12/14/2011	ORD-Dispensing Oral Argument			
02/15/2012	Deny Attorney's Fees			
02/15/2012	Affirmed - Per Curiam Affirmed			
03/02/2012	Mandate			
03/02/2012	West Publishing			

List of Abbreviations Printer Friendly View