

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

ROBERT and RUTH LAWRENCE,)
)
 Petitioners,)
)
 vs.)
)
 TERRA MAR VILLAGE)
 UTILITIES, INC.,)
)
 Respondent.)

Case No. 98-5499

980163 - W5

ORDER PUBLISHING EX PARTE COMMUNICATION
AND REQUIRING PETITIONERS' RESPONSE

By letter dated December 29, 1998, Petitioners in the above-styled matter, complain of the style of this matter as inappropriate. Further, Petitioners allege that the style of this matter:

Makes it impossible to fairly and impartially use an administrative hearing since the 5 commissioners would be presenting a case where they themselves would be presenting their own corruption at our insistence before a judge.

The letter does not indicate that copies have been provided

ACK _____ others to this action, as required by Section 120.66, Florida
AFA _____
APP _____ Statutes, which reads as follows:

CAF _____ 120.66 Ex parte communications.-
CMU _____ (1) In any proceeding under ss. 120.569 and
CTR _____ 120.57, no ex parte communication relative to
EAG _____ the merits, threat, or offer of reward shall
LEG _____ be made to the agency head, after the agency
LIN _____ head has received a recommended order, or to
OPC _____ the presiding officer by:
RCH _____ (a) An agency head or member of the agency
SEC _____ or any other public employee or official
WAS _____ engaged in prosecution or advocacy in

OTH 1

WAS _____
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connection with the matter under consideration or a factually related matter.

(b) A party to the proceeding, the party's authorized representative or counsel, or any person who, directly or indirectly, would have a substantial interest in the proposed agency action.

Nothing in this subsection shall apply to advisory staff members who do not testify on behalf of the agency in the proceeding or to any rulemaking proceedings under s. 120.54.

(2) A presiding officer, including an agency head or designee, who is involved in the decisional process and who receives an ex parte communication in violation of subsection (1) shall place on the record of the pending matter all written communications received, all written responses to such communications, and a memorandum stating the substance of all oral communications received and all oral responses made, and shall also advise all parties that such matters have been placed on the record. Any party desiring to rebut the ex parte communication shall be allowed to do so, if such party requests the opportunity for rebuttal within 10 days after notice of such communication. The presiding officer may, if necessary to eliminate the effect of an ex parte communication, withdraw from the proceeding, in which case the entity that appointed the presiding officer shall assign a successor.

(3) Any person who makes an ex parte communication prohibited by subsection (1), and any presiding officer, including an agency head or designee, who fails to place in the record any such communication, is in violation of this act and may be assessed a civil penalty not to exceed \$500 or be subjected to other disciplinary action.


In view of the foregoing, it is ORDERED:

(1) In an exercise of caution, a copy of Petitioners' letter is provided to all parties in this proceeding by attachment to this order.

(2) Further, Petitioners are requested to notify the undersigned in writing no later 5:00 p.m. on January 15, 1999,

regarding whether the above-quoted language of the letter should be presumed to be a withdrawal of this matter for any further proceedings before the Division of Administrative Hearings (DOAH). Absent response from Petitioners in accordance with the requirements of this order, an order shall issue dismissing further proceedings in this forum and relinquishing jurisdiction to the referring agency.

DONE AND ORDERED this 5th day of January, 1999, in Tallahassee, Leon County, Florida


DON W. DAVIS
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 5th day of January, 1999.

COPIES FURNISHED:

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157 REV BASS LANE (TERRA MOK VILLAGE)
EDGEWATER, FLORIDA 32141-7368
(904) 345-0469
DECEMBER, 29, 1998

98-5499 DWP
DEC 31 PM 12:19
FILED
ADMINISTRATIVE
HEARINGS

SHARYN L. SMITH, CHIEF JUDGE
DIVISION OF ADMINISTRATIVE HEARINGS
THE DESOTO BUILDING
1230 APALACHEE PARKWAY
TALLAHASSEE, FLORIDA 32399-3060
DEAR JUDGE SMITH;

This is in regards to a DOAH case dated 12-21-98 with NUMBERS 98-5499 (980163-WS) which we received 12-23-98 right in the middle of the Christmas holidays.

The title is incorrect and was given most likely by a lawyer at the PSC by the name of TIM VACCARO. Per our 28 PAGE TESTAMONY that the PSC received as evidence and protest on 3-29-94, the defendant is listed as Frank J. Uddo Sr. mortgager and successor receiver of TMV. Also, our letter of 7-24-98 demanded that the following be added to the title: "PLUS associated PSC corruption primarily perpetrated and instigated, but not limited to, PSC employee Robert (TED) Davis and succeeding improper actions by PSC Attorneys etc" which made this case last unnecessarily too long. The TMV utilities, inc listed as respondent, had no authority at the time of our water lock-off, since the class action lawsuit and mortgage foreclosure at that time made TMV a possession of Volusia County circuit court with Judge William Johnson in charge. (TMV) had no court order to disconnect our Water.

We would like to have our examination of TMV UTS. documents exposed, since they completely violate the laws of our country. These documents were received by us on 9-15-98 and are really stupid.

Our title (per above) of this case makes it impossible to fairly and impartially use an administrative hearing since the 5 commissioners would be presenting a case where they themselves would be presenting their own corruption at our insistence before a judge. This would be "Conflict of Interest" on a grand scale. Don't believe fines or prison terms can be administered at a DOAH.

We are now involved with a law firm to take this one to court, where it should have been long ago.

If TMV-PSC wants to make a serious offer of settlement, we will listen, otherwise it will get dirty and make bad publicity for those involved. Two very inadequate offers have been rejected by us.

Sincerely,

Robert A. Lawrence + D. + P. Lawrence