

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT  
IN AND FOR LEON COUNTY, FLORIDA

ROBERT R. ROSCOW and THEODORE  
E. BIERLY (a/k/a TEDDI BIERLY),

Plaintiffs,

CASE NO: 03-CA-1833

vs.

JOSE ABREU, as Secretary of the  
FLORIDA DEPARTMENT OF  
TRANSPORTATION,

Defendant.

Post-it® Fax Note	7671	Date	6/21/06	# of pages	2
To	Robert Roscow	From	R. Bernouan		
Co./Dept	Holiday Inn	City			
Phone #	RM 315	Phone	8509421474		
Fax #	336-626-4000	Fax #			

**ORDER GRANTING DEFENDANT'S MOTION TO RATIFY CURATIVE  
PROCEDURES AND DENYING PLAINTIFFS' MOTION FOR SANCTIONS**

The predecessor judge in this case entered a summary judgment in favor of the Plaintiffs declaring that meetings of the Environmental Resource and Regulatory Agency Group ("ERRAG") in which the Defendant participated, should have been open to the public. The Court directed that all future meetings be held in the public after due notice and reserved jurisdiction to determine an appropriate remedy for the meetings that had been called prior to summary judgment that were not public. Thereafter the parties entered into a mediated agreement intended to provide such a remedy. The parties are before me now, having disagreed as to whether the Defendant has complied with the terms of that agreement.

The fundamental problem, it seems to me, is that the parties have attempted, in the mediation agreement, to obligate others who are not parties to the case or to the agreement, to take certain specified actions. Specifically, the agreement required other members of the


ERRAG to attend two curative meetings via "the most knowledgeable person from the agency". It required them to present certain matters at the meeting, including the various agencies' mission or mandate, the scope of the responsibility of the agency as required by the mandate and as it regards the proposed SunCoast Parkway study, and each issue that required or received agency analysis and consultation concerning the proposed SunCoast Parkway. The agreement required each agency to present a complete step by step written explanation of the analysis that was done to arrive at each and every comment and recommendation made to the Defendant, FDOT.

The Plaintiffs now complain that some of the agencies were not represented at the curative meetings or did not have the most knowledgeable person present to present. The Defendant responds that it has no authority to require the other agencies to comply.

The Plaintiffs have some legitimate concerns in terms of the inadequacies of the procedures to fully recreate what occurred at the meetings that were not held in public. However, I agree that the Defendant has made a good faith effort to meet its obligation under the mediation agreement and to remedy the harm caused to the Plaintiffs and the rest of the public in conducting the previous meetings.

Accordingly, it is ORDERED AND ADJUDGED that the Defendant's Motion to Ratify Curative Procedures is granted and the Plaintiffs' Motion for Sanctions is denied.

DONE AND ORDERED in Chambers at Tallahassee, Leon County, Florida, this 13 day of April, 2006.

  
TERRY P. LEWIS, Circuit Judge