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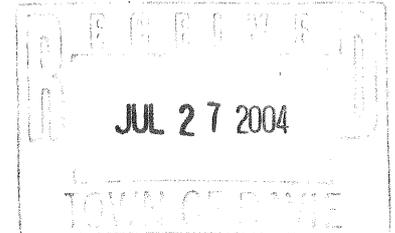
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RETIRED:
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BURL F. GEORGE

* BOARD CERTIFIED CIVIL TRIAL LAWYERS
† BOARD CERTIFIED APPELLATE LAWYERS

July 23, 2004



Monroe D. Kiar, Esquire
Town of Davie
6191 SW 45th Street
Suite 6151A
Davie, FL 33314

Re: Olde Bridge Run Homeowner's Assn., et al, vs. Town of Davie
Our File No.: 23406 MTB
03-15129 CACE 11 (Declaratory Action)

Dear Mr. Kiar:

Enclosed please find copies of the following for your file in the above-referenced matter:

- 1) Defendant, Sheridan House's, Motion to Tax Costs and Attorney's Fees;
- 2) Affidavit as to Attorneys' Fees and Costs; and
- 3) Defendant, Town of Davie's, Motion for Attorneys' Fees.

I will continue to keep you advised of further developments.

Very truly yours,

Jamari M. Scruders (for)

Michael T. Burke
For the Firm

MTB/lt
Enclosure

cc Mr. Mark Kutney (w/encl.)
Mr. Tom Willi (w/encl.)

IN THE CIRCUIT COURT OF THE 17TH
JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA

CASE NO.: 03-15129 CACE 11

OLDE BRIDGE RUN HOMEOWNER'S
ASSOCIATION, INC. a Florida corporation
not-for-profit, DEBORAH TAM, individually,
MITCH TOPAL, individually, MARCIA
JOSEPH, individually, RUTH DREYER,
individually, and THOMAS KORYNTA,
individually,

Plaintiffs,

vs.

TOWN OF DAVIE, a municipal corporation,

Defendant,

and

SHERIDAN HOUSE, INC., a not-for-profit
Florida Corporation,

Defendant/Intervenor.

DEFENDANT SHERIDAN HOUSE'S
MOTION TO TAX COSTS AND ATTORNEY'S FEES

Defendant, SHERIDAN HOUSE, INC. ("Sheridan House"), by and through its undersigned counsel and pursuant to *Fla. Stat.* §57.041, Fla. R. Civ. P. 1.380(c), §163.3215, *Fla. Stat.* and §57.105, hereby files its Motion to Tax Costs and Attorneys Fees against Plaintiffs and their counsel, as follows:

1. Plaintiffs' Amended Complaint sought declaratory and injunctive relief pursuant to §163.3215, *Fla. Stat.* alleging that the Town acted inconsistent with its comprehensive land use plan

in approving a rezoning ordinance (“Ordinance”) and a special permit (“Special Permit”) for Sheridan House.

2. On December 8, 2003, Sheridan House served Requests for Admission upon each of the Plaintiffs, copies of which are attached hereto as Composite Exhibit “A.”

3. On December 16, 2003, Plaintiffs filed their Responses to Sheridan House’s Requests for Admissions, copies of which are attached hereto as Composite Exhibit “B.”

4. On February 23, 2004, Sheridan House filed its Motion for Attorney’s Fees pursuant to §57.105, *Fla. Stat.*, a copy of which is attached hereto as Exhibit “C.”

5. On June 18, 2004, the Court entered a Final Judgment in favor of Defendants on all claims in Plaintiffs’ Complaint.

6. Sheridan House is entitled to an award of its costs and attorneys’ fees incurred in defending against this action.

7. Pursuant to 57.041, *Fla. Stat.*, a prevailing party may recover its costs against its adversary. As the prevailing party, Sheridan House is entitled to recover its costs from Plaintiffs.

8. Sheridan House is entitled to an award of costs and attorneys’ fees pursuant to Fla. R. Civ. P. 1.380(c). Plaintiffs denied most of the Requests for Admissions that Sheridan House served on Plaintiffs. As a result, Sheridan House was required to present extensive proofs at trial to prove the facts that Plaintiffs improperly refused to admit. Having proved those facts, and prevailed at trial, Sheridan House may now recover its costs and fees in making those proofs under Fla. R. Civ. P. 1.380(c).

9. Sheridan House is also entitled to recover its attorneys fees against Plaintiffs and their counsel pursuant to §163.3215(6), *Fla. Stat.* That statute states that a Court “shall impose” an

appropriate sanction against a party and/or its counsel where a pleading is “interposed for any improper purpose, such as to harass or to cause unnecessary delay or for economic advantage, competitive reasons or frivolous purposes or needless increase in the cost of litigation.”

10. Plaintiffs’ Complaints were interposed for a variety of improper purposes, all of which were shown at trial. Mrs. Dryer’s testimony was that she wanted to be around “neighbors who were similar in nature to [her], economically, you know, just kind of a homogeneous kind of a place to live....” Her NIMBY (not in my backyard) fears do not justify a land use claim under §163.3215, *Fla. Stat.* Mr. Topal similarly evidenced at trial that his motivation was fueled by unjustified NIMBY fears when he testified about his campaign materials that referred to the Sheridan House children as “juvenile delinquents” despite not having a good faith basis to make that assertion. Mrs. Tam claimed that she wanted to preserve her “equestrian” neighborhood, yet admitted that she has never had a horse or stable. Finally, all Plaintiffs, including Mrs. Joseph, had no standing to even bring this action given their distance from the subject property and the other reasons delineated in the Court’s Final Judgment.

11. Similarly, pursuant to §57.105, *Fla. Stat.*, a court shall award attorneys’ fees and costs equally against a party and its counsel where the court finds that the losing party or its attorney knew or should have known that a claim either (a) was not supported by the material facts necessary to establish the claim or defense, or (b) would not be supported by the application of then-existing law to those material facts.

12. For the reasons delineated above, and for the reasons delineated in Sheridan House’s Motion to Tax Costs attached hereto as Exhibit “C,” Plaintiffs and their counsel knew or should have known that their Complaint was not supported by the material facts necessary to establish the claims

asserted therein and also were not supported by the application of existing law to those material facts. Critically, the approved development will be substantially more compatible with the surrounding community than a single-family residential neighborhood. Plaintiffs' argument at trial really came down to a plea to the Court to keep the property undeveloped, a goal that is not supported under any good faith construction of the comprehensive plan.

13. Sheridan House has filed with this Motion the Affidavit of Bryan Greenberg, Esq. As To Attorneys' Fees and Costs delineating the amount of fees and costs that Sheridan House is entitled to recover from Plaintiffs as the prevailing party.

WHEREFORE, Defendant, SHERIDAN HOUSE respectfully request that this Honorable Court enter an Order awarding it attorney's fees against Plaintiffs and their counsel, and costs against Plaintiffs, and for such other and further relief as the Court deems just and proper.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by U.S. Mail to James Brady, Esq., JAMES C. BRADY & ASSOCIATES, 501 N.E. 8th Street, Fort Lauderdale, Florida 33304; and to Michael T. Burke, Esq., JOHNSON, ANSELMO, MURDOCH, BURKE & GEORGE, P.A., 790 East Broward Boulevard, Suite 400, Fort Lauderdale, Florida 33301, this 16th day of July, 2004.

Respectfully submitted,

RUDEN, McCLOSKY, SMITH
SCHUSTER & RUSSELL, P.A.
Attorneys for Defendant Sheridan House
Post Office Box 1900
Fort Lauderdale, Florida 33302
(954) 527-2472, (954) 333-4072 (Fax)

By: _____

Bryan S. Greenberg
Florida Bar No. 968315

IN THE CIRCUIT COURT OF THE 17TH
JUDICIAL CIRCUIT, IN AND FOR
BROWARD COUNTY, FLORIDA

Case No. 03-015129 (11)

OLDE BRIDGE RUN HOMEOWNER'S :
ASSOCIATION, INC., a Florida :
corporation not-for-profit, DEBORAH :
TAM, individually, MITCH TOPAL, :
individually, MARSHA JOSEPH, :
individually, RUTH DREYER, individually, :
and THOMAS KORYNTA, individually, :
Plaintiffs, :

vs. :

TOWN OF DAVIE, a municipal :
corporation, :
Defendant. :

-and- :

SHERIDAN HOUSE, INC., a Florida :
not for profit corporation, :
Intervenor/Defendant. :

**DEFENDANT/INTERVENOR SHERIDAN HOUSE'S FIRST REQUEST
FOR ADMISSIONS TO PLAINTIFF**

Defendant/Intervenor, SHERIDAN HOUSE, INC., a Florida not-for-profit corporation,
hereby propounds its First Request for Admissions to Plaintiff, DEBORAH TAM, individually,
requiring said party to respond in writing within the time and manner prescribed by law.

DEFINITIONS

Where applicable, the following words or terms shall be deemed to mean the following:

- A. The term "you" or "your" means the person(s) or entity(ies) to whom these Interrogatories are addressed, including all other persons or entities acting or purporting to act on behalf of same.
- B. All singular words include the plural, and all plural words include the singular.

- C. All words in the present tense include the past, and all words in the past tense include the present.
- D. "Communications" means any oral or written statement, dialogue, discussion, conversation, or agreement.
- E. "Person" means any natural person, individual, proprietorship, corporation, association, organization, joint venture, firm, other business enterprise, governmental body, group of natural persons, or other entity.
- F. As used herein, the singular and masculine form of noun and pronoun shall embrace and be read and applied as the plural or feminine or neuter, as circumstances may make appropriate.
- G. You may, in lieu of identifying any document, attach a true copy of such document or communication as an exhibit to the Answers to these Interrogatories, along with an explicit reference to the Interrogatory to which each such attached document or communication relates.
- H. The following terms shall be used in these Interrogatories as follows:
- i. The term "Town" shall refer to the Defendant, Town of Davie, Florida.
 - ii. The term "Plaintiff" shall refer to the Plaintiff, Deborah Tam.
 - iii. The term "Complaint" shall refer to the Complaint filed by Plaintiff in the above captioned matter.
 - iv. The term "Property" shall refer to Sheridan House's property, located at 1700 Flamingo Road, Davie, Florida.
 - iv. The term "Special Permit" shall refer to the Order adopted by the Town dated August 1, 2003 pertaining to the Property.
 - v. The term "Zoning Order" shall refer to Ordinance 2003-27, adopted by the Town following second reading on August 6, 2003.
 - vi. The term "Town Council" shall refer to the Town Council for the Town of Davie, Florida.
 - vi. The term "Code" shall refer to the Davie Code of Ordinances, with all amendments thereto.
 - vii. The term "Comprehensive Plan" refers to the Comprehensive Land Use Plan adopted by the Town of Davie, Florida, with all amendments thereto.

ADMISSIONS

1. Admit that the Special Permit did not constitute an amendment to the Comprehensive Plan.
2. Admit that the Zoning Ordinance not constitute an amendment to the Comprehensive Plan.
3. Admit that the Town did not utilize the flexibility provisions of its Comprehensive Plan or Code in granting the Special Permit.
4. Admit that the Town did not use the flexibility provisions of its Comprehensive Plan or Code in the granting of the Zoning Ordinance.
5. Admit that the Code permits office buildings in lands zoned CF, where said office buildings are an accessory use to the principal use on the Property.
6. Admit that the Comprehensive Plan permits office buildings in lands zoned CF, where said office buildings are an accessory use to the principal use on the Property.
7. Admit that the uses approved by the Special Permit are compatible with the surrounding community.
8. Admit that the uses approved by the Special Permit are complimentary to the surrounding community.
9. Admit that the uses permitted by the Zoning Ordinance are complimentary to the surrounding community.
10. Admit that Policy 6-7 in the Comprehensive Plan refers exclusively to uses permitted pursuant to the flexibility provisions in the Comprehensive Plan.
11. Admit that the uses permitted by the Special Permit will be limited to serving the residents on the Property.
12. Admit that the uses permitted by the Zoning Ordinance will be limited to serving the residents on the Property.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing was furnished, by facsimile transmission and prepaid U.S. Mail, to James Brady, Esq., 501 N.E. 8th Street, Ft. Lauderdale, Florida 33304; and to Michael T. Burke, Esq., JOHNSON, ANSELMO, MURDOCH, BURKE & GEORGE, P.A., 790 E. Broward Blvd., Suite 400, P.O. Box 030220, Ft. Lauderdale, FL 33303-0220, this Yth day of December, 2003.

Respectfully submitted,

RUDEN, McCLOSKEY, SMITH,
SCHUSTER & RUSSELL, P.A.
Attorneys for Sheridan House
200 East Broward Boulevard
Post Office Box 1900
Fort Lauderdale, Florida 33302
(954)764-6660; Fax: (954)764-4996

By: _____

Bryan S. Greenberg
Florida Bar No. 968315

IN THE CIRCUIT COURT OF THE
17TH JUDICIAL CIRCUIT IN AND
FOR BROWARD COUNTY, FLORIDA

CASE NO.: 03-15129 CACE 11

OLDE BRIDGE RUN HOMEOWNER'S
ASSOCIATION, INC., a Florida
corporation not-for-profit,
DEBORAH TAM, individually,
MITCH TOPAL, individually,
MARCIA JOSEPH, individually,
RUTH DREYER, individually, and
THOMAS KORYNTA, individually

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B.S.G.

Plaintiffs,

vs.

TOWN OF DAVIE, a municipal
corporation,

Defendant.

RESPONSE TO SHERIDAN HOUSE'S FIRST REQUEST FOR ADMISSIONS

COMES NOW, Plaintiff, MITCH TOPAL, individually, by and through undersigned
Counsel and files his answers to Sheridan House's First Request for Admissions and states as
follows:

1. Admit
2. Admit
3. Deny
4. Deny
5. Deny
6. Deny
7. Deny

Exhibit "B"

8. Deny

9. Deny

10. After diligent review and inquiry, the Plaintiff cannot answer Request for Admission No. 10, in that it requires an interpretation of what is in the minds of the one requesting the admission. Nevertheless, the Plaintiff denies the request and refers the Defendant to Policy 6-7 and the specific provisions with regard to the residential land use category and the future land use plan: plan implementation section of the Town's Comprehensive Plan, at sub 9 which sets forth the provisions with regard to office and/or retail sales of merchandise or services.

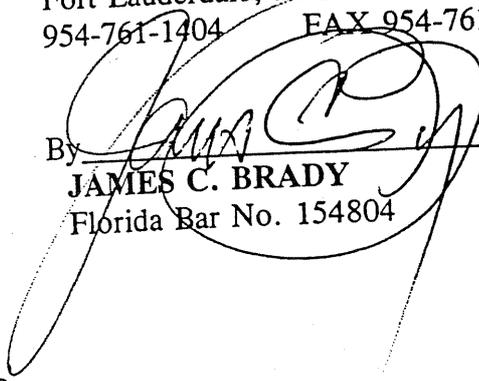
11. Deny

12. Deny

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished by facsimile and mailed this ¹⁷~~16~~ day of December, 2003, to Bryan S. Greenberg, Esquire, Ruden, McClosky, Smith, Schuster & Russell, P., A., 200 East Broward Blvd. - 15th Floor, Fort Lauderdale, Florida 33301 and E. Bruce Johnson, Esquire, Michael T. Burke, Esquire, Jonson, Anselmo, Murdoch, Burke & George, P. A., 790 East Broward Blvd. - #400, Fort Lauderdale, Florida 33301.

JAMES C. BRADY & ASSOCIATES
Attorneys for Plaintiffs
501 Northeast 8th Street
Fort Lauderdale, Florida 33304
954-761-1404 FAX 954-761-1489

By 
JAMES C. BRADY
Florida Bar No. 154804

JCB:jl

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IN THE CIRCUIT COURT OF THE 17TH
JUDICIAL CIRCUIT, IN AND FOR
BROWARD COUNTY, FLORIDA

Case No. 03-015129 (11)

OLDE BRIDGE RUN HOMEOWNER'S :
ASSOCIATION, INC., a Florida :
corporation not-for-profit, DEBORAH :
TAM, individually, MITCH TOPAL, :
individually, MARSHA JOSEPH, :
individually, RUTH DREYER, individually, :
and THOMAS KORYNTA, individually, :
Plaintiffs, :

vs. :

TOWN OF DAVIE, a municipal :
corporation, :
Defendant. :

-and- :

SHERIDAN HOUSE, INC., a Florida :
not for profit corporation, :
Intervenor/Defendant. :

DEFENDANT/INTERVENOR SHERIDAN HOUSE'S
MOTION FOR ATTORNEY'S FEES PURSUANT TO § 57.105, FLA. STAT.

Defendant/Intervenor SHERIDAN HOUSE, INC. ("Sheridan House"), by and through undersigned counsel, and pursuant to § 57.105, Fla. Stat., hereby files this Motion for Attorney's Fees against Plaintiffs DEBORAH TAM, MITCH TOPAL, MARSHA JOSEPH and RUTH DREYER ("Plaintiffs"), and their counsel, and in support thereof states:

1. Plaintiffs filed their Amended Complaint in the captioned matter on October 7, 2003. That pleading seeks declaratory and injunctive relief pursuant to § 163.3215, *Fla. Stat.*

2. The Amended Complaint is not supported by any material facts necessary to establish Plaintiffs' claims, nor is the Amended Complaint supported by the application of existing law to those material facts.

3. First, Plaintiffs lack standing to proceed with their claim under § 163.3215, *Fla. Stat.* Plaintiffs are not aggrieved or adversely effected parties as those terms are defined in the statute.

4. Second, Plaintiffs raise issues in this matter that were presented to Judge Carney in the matter captioned *Olde Bridge Run Homeowners Association, Inc., et al. v. Town of Davie, et al.*, Case No. 03-15130 CACE (04). Those issues were properly presented to Judge Carney in that Certiorari proceeding. This Court does not have jurisdiction to consider the same issues. In addition, Judge Carney's ruling against Plaintiffs on all issues constitutes *res judicata* and collateral estoppel in this lawsuit.

5. Third, Plaintiffs improperly rely upon §§ 6-2 and 6-7 of the Comprehensive Land Use Plan. These sections are completely inapplicable. Neither the special use permit nor the zoning order amended the Town's Comprehensive Land Use Plan or applied the flexibility rules to the property.

6. Fourth, the administrative building is not an intense office/commercial use; rather, it is a one-story building that is accessory to the residential uses on the property. It is also part of the residential, community facilities principal uses. As such, the project is consistent with the residential land use category on the future land use map.

7. Fifth, the approved use is compatible with the surrounding uses. The extensive buffering is delineated in detail on the conceptual site plan, approved site plan and in the staff reports. The impacts will actually be less than a purely residential 1 unit/acre development.

8. Sixth, the Town completed the special permit review process as part of the rezoning, and has subsequently approved a site plan for the project. The procedure followed by the Town in the adoption of the special permit has now been approved by Judge Carney. As such, the approvals are consistent with Policy 6-5 of the Comprehensive Plan to the extent that said section is applicable.

9. Finally, the development orders are otherwise consistent with the Town's Comprehensive Plan.

10. It is clear that Plaintiffs filed this action solely to perpetuate a "not in my back yard" fear regarding the children that will be assisted on Sheridan House's campus. This motivation is improper and without factual or legal basis.

WHEREFORE, Defendant/Intervenor Sheridan House, Inc. hereby request that the Court enter an Order granting its Motion for Attorney's Fees pursuant to § 57.105, Fla. Stat. against Plaintiffs and their counsel, and for such other and further relief as the Court deems just and proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished, by prepaid U.S. Mail, to James Brady, Esq., 501 N.E. 8th Street, Ft. Lauderdale, Florida 33304; and to Michael T. Burke, Esq., JOHNSON, ANSELMO, MURDOCH, BURKE & GEORGE, P.A., 790 E. Broward Blvd., Suite 400, P.O. Box 030220, Ft. Lauderdale, FL 33303-0220, this 23rd day of February, 2004.

Respectfully submitted,

RUDEN, McCLOSKEY, SMITH,
SCHUSTER & RUSSELL, P.A.
Attorneys for Sheridan House
200 East Broward Boulevard
Post Office Box 1900
Fort Lauderdale, Florida 33302
(954)764-6660; Fax: (954)764-4996

By: _____

Bryan S. Greenberg
Florida Bar No. 968315

IN THE CIRCUIT COURT OF THE 17TH
JUDICIAL CIRCUIT, IN AND FOR
BROWARD COUNTY, FLORIDA

CASE NO. 03-015129 (11)

Fla. Bar No. 968315

OLDE BRIDGE RUN HOMEOWNER'S
ASSOCIATION, INC., a Florida
corporation not-for-profit, DEBORAH
TAM, individually, MITCH TOPAL,
individually, MARSHA JOSEPH,
individually, RUTH DREYER,
individually, and THOMAS KORYNTA,
individually,

Plaintiffs,

vs.

TOWN OF DAVIE, a municipal
corporation,

Defendant,

and SHERIDAN HOUSE, INC., a Florida
not for profit corporation,

Intervenor/Defendant.

_____ /

AFFIDAVIT AS TO ATTORNEYS' FEES AND COSTS

STATE OF FLORIDA)
) SS:
COUNTY OF BROWARD)

BEFORE ME, the undersigned authority, personally appeared BRYAN S.
GREENBERG, who first being duly sworn, affirms and states that:

1. I am over eighteen (18) years of age. I have personal knowledge of all facts and
circumstances set forth herein as counsel of record for Intervenor/Defendant, SHERIDAN
HOUSE, INC. ("Sheridan House").

2. Sheridan House retained Ruden, McClosky, Smith, Schuster & Russell, P.A., (“Ruden McClosky”) to represent them in connection with this matter. Sheridan House agreed to pay Ruden, McClosky for its services based upon the standard billing rates established by Ruden, McClosky for its attorneys and legal assistants. The undersigned attorney was the attorney in charge of representing Sheridan House in this matter.

3. Since September 24, 2003, Ruden McClosky has performed valuable professional services for Sheridan House in the captioned matter. The following are the number of hours expended by attorneys and paralegals at Ruden McClosky working on this case and the total value of the time expended by Ruden, McClosky with regard to the captioned matter through Ruden, McClosky’s June 21, 2004 invoice (copies of the invoices of Ruden, McClosky are attached hereto as Exhibit “A”):

<u>ATTORNEYS</u>		
<u>Name</u>	<u>Total Hours Billed</u>	<u>Total Amount Billed</u>
Bryan S. Greenberg (trial counsel)	196.45	\$50,8188.88
Ari Shapiro (litigation associate)	159.15	\$30,097.47
Daniel Matlow (litigation associate)	48.22	\$ 9,643.86
Scott Backman (land use associate)	.70	\$ 133.34
<u>PARALEGALS</u>		
Marcy Richardson, n/k/a Marcy Gallagher (litigation)	<u>96.35</u>	<u>\$14,453.45</u>
TOTAL:	500.77	\$105,147.00

4. Sheridan House has incurred additional costs and fees since the period covered by Ruden, McClosky’s June 21, 2004 invoice, but the invoice for those costs has not yet been

prepared. Affiant will supplement this Affidavit prior to the date of the hearing on Sheridan House's Motion.

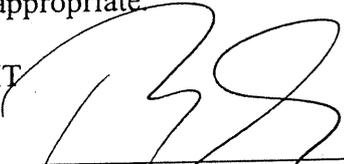
5. The following are allowable costs incurred by Sheridan House in connection with this lawsuit (copies of invoices for costs are attached hereto as Exhibit "B"):

A.	Photocopies	\$3,860.50
B.	Court Reporters	\$3,869.35
C.	Fax Charges	\$1,002.00
D.	Fax Long Distance	\$ 23.75
E.	Federal Express	\$ 7.56
F.	Messenger Delivery	\$ 24.00
G.	Courier Service	\$ 182.33
H.	Outside Printers	\$ 543.81
I.	Process Server	\$ 330.00
J.	Special Reproduction Services	\$ 441.00
K.	Long Distance	\$ 42.12
L.	Westlaw Research	\$1,253.10
M.	Witness Fees	\$ 40.00
N.	Check Disbursements	\$1,167.88
O.	Expert—Miller Appraisal Group, Inc.	\$2,500.00
P.	Expert—Leigh Kerr & Associates	\$12,517.50
Q.	Mediation Costs to Mediar, Inc.	\$ 187.50
R.	Trial demonstrative exhibit—Ikon	<u>\$ 74.18</u>
	Total	\$28,066.58

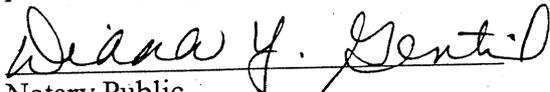
6. The total allowable costs and attorneys' fees incurred by the Sheridan House, which Sheridan House seeks to recover, is \$133,213.58.

7. The number of hours expended by the above-referenced attorneys and paralegals were reasonably necessary in the course of representation of the client in this case. Thus, the total fees billed to the client were reasonable and appropriate.

FURTHER AFFIANT SAYETH NAUGHT


BRYAN S. GREENBERG

SWORN TO AND SUBSCRIBED before me this 16th day of July, 2004, as true and accurate, by BRYAN S. GREENBERG, who is personally known to me. ~~or who has produced~~ _____ as identification.


Notary Public

DIANA Y. GENTIL
Typed, Printed or Stamped Name of
Notary Public



Diana Y. Gentil
MY COMMISSION # DD050170 EXPIRES
August 14, 2005
BONDED THRU TROY FAIN INSURANCE, INC.

My Commission Expires:

IN THE CIRCUIT COURT OF THE 17TH
JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA

OLDE BRIDGE RUN HOMEOWNER'S
ASSOCIATION, INC. a Florida corporation
not-for-profit, DEBORAH TAM, individually,
MITCH TOPAL, individually, MARCIA
JOSEPH, individually, RUTH DREYER,
individually, and THOMAS KORYNTA,
individually,

Case No.: 03-15129 CACE 11

Plaintiffs,

vs.

TOWN OF DAVIE, a municipal corporation,

Defendant.

DEFENDANT, TOWN OF DAVIE'S, MOTION FOR ATTORNEYS' FEES

The Defendant, TOWN OF DAVIE, by and through its undersigned attorneys and pursuant to Florida Statutes §57.105 and Rule 1.525 of the Florida Rules of Civil Procedure, requests that the Court enter an Order determining that the Defendant, Town of Davie, is entitled to attorneys' fees as against the Plaintiffs, and as grounds therefore would show:

1. Plaintiffs' Amended Complaint sought declaratory and injunctive relief pursuant to §163.3215, Florida Statutes, alleging that the Town acted inconsistent with its comprehensive land use plan in approving a rezoning ordinance ("Ordinance") and a special permit ("Special Permit") for Sheridan House.

2. On February 23, Sheridan House filed its Motion for Attorney's Fees pursuant to §57105, Florida Statutes.

3. On June 18, 2004, the Court entered a Final Judgment in favor of Defendants on all claims in Plaintiffs' Complaint.

4. The Defendant, Town, is entitled to an award of its attorneys' fees incurred in defending this action.

5. Pursuant to §57.105, Florida Statutes, a court shall award attorneys' fees where the court finds that the losing party knew or should have known that a claim either (a) was not supported by the material facts necessary to establish the claim or defense, or (b) would not be supported by the application of then-existing law to those material facts.

6. For the reasons set forth in Sheridan House's Motion to Tax Costs and Attorneys' Fees, the Defendant, Town of Davie, is likewise entitled to an order establishing its entitlement to an award of attorneys' fees as the prevailing party.

WHEREFORE, the Defendant, TOWN OF DAVIE, requests that the Court enter an Order determining that the Town of Davie is entitled to recover its attorneys' fees incurred in defending this action.

SERVICE LIST

I HEREBY CERTIFY that a true and correct copy of the foregoing has been mailed via US Mail to: **James C. Brady, Esq.**, Attorneys for Plaintiffs, 501 NE 8th Street, Fort Lauderdale, FL 33304 and **Bryan S. Greenberg, Esq. / Ari C. Shapiro, Esq.**, Ruden, McClosky, et al, Attorneys for Intervener, 200 E. Broward Blvd., 15th Floor, Fort Lauderdale, FL 33302, this 23 day of July, 2004.

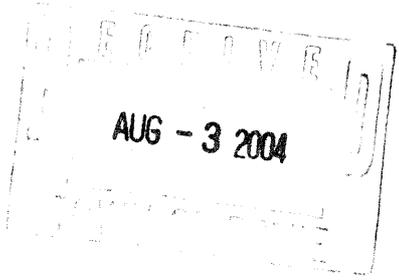
JOHNSON, ANSELMO, MURDOCH, BURKE,
PIPER & McDUFF, P.A.

Attorney for TOWN OF DAVIE
2455 East Sunrise Blvd., Suite 1000
Fort Lauderdale, FL 33304
Tel: (954) 463-0100
Fax: (954) 463-2444

By:  0131512
~~FOR~~ E. BRUCE JOHNSON
Florida Bar No. 262137
MICHAEL T. BURKE
Florida Bar No. 338771

#23406MTB/lt

C: Council



MEMORANDUM

Department of Budget and Finance

From: To: Thomas J. Willi, Town Administrator

To: ~~From:~~ William F. Underwood, II, Budget and Finance Director *WFL*

Date: August 2, 2004

Subject: Sheridan House

Pursuant to your request, please find attached a list of expenses through July 2, 2004, regarding the Sheridan House.

Should you have any questions, please feel free to contact me.

Thank you.

Approved Denied Hold for Discussion

Comments: *Copy Council*
Add this as backup for new discussion
item 8/13 agenda

8/4/04
Date

WFL
Initials/reviewed by

and Council etc.

JOHNSON/ BURKE

CHECK NUMBER	DATE	REGARDING	AMOUNT
167803	01/09/04	Old Bridge Run Homeowner's Association, Deborah Tam, Mitch Topal, Marcia Joseph, Ruth Dreyer & Thomas Korynta vs Town of Davie & Sheridan house	\$2,277.42
168116	01/23/04	Old Bridge Run Homeowner's Association, Deborah Tam, Mitch Topal, Marcia Joseph, Ruth Dreyer & Thomas Korynta vs Town of Davie	\$1,359.82
168340	02/06/04	Old Bridge Run Homeowner's Association, Deborah Tam, Mitch Topal, Marcia Joseph, Ruth Dreyer & Thomas Korynta vs Town of Davie	\$3,015.73
170169	05/07/04	Old Bridge Run Homeowner's Association, Deborah Tam, Mitch Topal, Marcia Joseph, Ruth Dreyer & Thomas Korynta vs Town of Davie & Sheridan house	\$2,695.06
170448	05/21/04	Old Bridge Run Homeowner's Association, Deborah Tam, Mitch Topal, Marcia Joseph, Ruth Dreyer & Thomas Korynta vs Town of Davie & Sheridan house Forman Industrial Land, LLC vs Town of Old Bridge Run Homeowner's Association, Deborah Tam, Mitch Topal, Marcia Joseph, Ruth Dreyer & Thomas Korynta vs Town of Davie	\$89.00 \$1,795.68
170613	05/28/04	Old Bridge Run Homeowner's Association, Deborah Tam, Mitch Topal, Marcia Joseph, Ruth Dreyer & Thomas Korynta vs Town of Davie	\$19,305.82 \$3,552.18
171330	07/02/04	Old Bridge Run Homeowner's Association, Deborah Tam, Mitch Topal, Marcia Joseph, Ruth Dreyer & Thomas Korynta vs Town of Davie	\$7,231.28
		TOTAL	\$13,352.83 \$54,674.82