

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

CIVIL DIVISION

CASE NO. CL-94-2141-AC

MICHAEL A. BARFIELD,
Plaintiff,

vs.

CITY OF WEST PALM BEACH,
Defendant.

ORDER GRANTING PERMANENT INJUNCTION

THIS CAUSE came before the Court for hearing on October 14, 1994, on Plaintiff's Motion for Summary Judgment. After reviewing the record, hearing argument of counsel, and being otherwise advised in the premises, it is

ORDERED AND ADJUDGED that the motion is granted as follows:

1. The Court incorporates by reference the findings and determinations contained in its Order Granting Injunction dated May 6, 1994 and makes permanent the temporary injunction issued on that date.
2. Accordingly, the City, its agents, employees and servants are permanently enjoined as follows:
 - a. no member of the public, including the plaintiff, shall be barred from any Board meeting;
 - b. all Board meetings shall be noticed to the public at least seven (7) days in advance of any scheduled meeting. The City shall provide notice of all Board meetings by publishing same in a

newspaper of common circulation and by any other customary means;

c. the Board shall conduct all of its proceedings in public. The Board shall not conduct any of its deliberations behind closed doors or in secret;

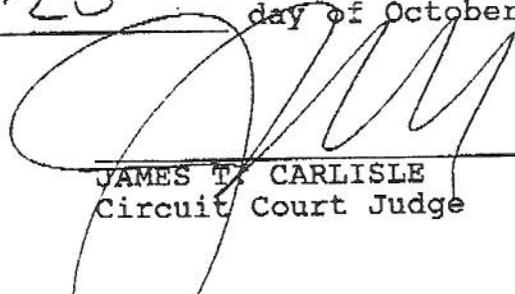
d. no Board member shall engage in or transact any Board business *except for scheduling matters* unless the Board is in session, and the public has been provided with advance notice of the Board meeting; and

e. any person who desires to inspect or copy records submitted to the Board shall be allowed to do so in accordance with the provisions of Section 119.07(1), Florida Statutes (1993).

3. This injunction remains in effect until further order of this Court.

4. The Court retains jurisdiction to enforce this injunction and to award attorney's fees and costs.

DONE AND ORDERED in Chambers, West Palm Beach, Palm Beach County, Florida, this 20 day of October, 1994.



JAMES T. CARLISLE
Circuit Court Judge

Copies furnished:

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

MICHAEL A. BARFIELD,

Plaintiff,

vs.

CASE NO.: CL 94-2141-AC

CITY OF WEST PALM BEACH,

Defendant.

ORDER GRANTING INJUNCTION

THIS CAUSE came before the Court for hearing on May 4, 1994, on Plaintiff's Motion for Temporary Injunction. After reviewing the testimony, hearing argument of counsel, and being otherwise advised in the premises, it is

ORDERED AND ADJUDGED that the motion is granted as follows:

1. Based on the undisputed testimony presented by plaintiff, the Court finds that members of the City of West Palm Beach ("City") Police Department have convened three meetings of the Complaint Review Board ("Board") since 1991; that, pursuant to Police Department policy, none of the Board meetings was noticed or open to the public; and that records considered by the Board remained confidential during the proceedings. The Court also finds that plaintiff requested to attend a fourth Board meeting scheduled for March 17, 1994, but was told he could not attend.

2. Plaintiff has demonstrated his entitlement to an injunction. First, he has shown sufficient likelihood of irreparable injury in the absence of an injunction. Although no Board meeting is presently scheduled, the evidence establishes that past

violations have occurred; that officers recommended for disciplinary action in the future may request review by the Board; and that, in the absence of an injunction, given the City's contention that the Sunshine Law does not apply, the Board may convene without notice behind closed doors in violation of Section 286.011, Florida Statutes (1993). See Town of Palm Beach v. Gradison, 296 So.2d 473, 477 (Fla. 1974) (holding that "[m]ere showing that government in the sunshine law has been violated constitutes an irreparable public injury"); Board of Public Instruction v. Doran, 224 So.2d 693, 700 (Fla. 1969) (holding that "Court may enjoin violations where one violation has been found if it appears that the future violations bear some resemblance to the past violation or that the danger of violations is to be anticipated from the course of conduct in the past").

4. Second, plaintiff has shown a clear legal right to relief. The Board is a "board" within the meaning of section 286.011. See Fla. Stat. § 286.011 (1993); 1978 Op. Atty Gen. Fla. 260. Consequently, all Board proceedings must be noticed and open to the public as required by the Sunshine Law. In addition, any records submitted to the Board are subject to the inspection provisions of Section 119.07(1), Florida Statutes (1993). In light of the applicability of the Sunshine Law and the undisputed evidence that past Board proceedings have violated these statutory provisions, plaintiff's legal right to relief is clear.

5. Third, plaintiff has no adequate remedy at law.

6. Finally, section 286.011 was enacted to protect the

public from "closed door" politics, see Deerfield Beach Publishing, Inc. v. Robb, 530 So.2d 510, 511 (Fla. 4th DCA 1988), and to help maintain the public's faith in governmental agencies, Board of Public Instruction, 224 So.2d at 699. Thus, an injunction prohibiting violations of section 286.011 serves the public interest.

7. Accordingly, the City, its agents, employees and servants are enjoined as follows:

a. no member of the public, including the plaintiff, shall be barred from any Board meeting;

b. all Board meetings shall be noticed to the public at least seven (7) days in advance of any scheduled meeting. The City shall provide notice of all Board meetings by publishing same in a newspaper of common circulation and by any other customary means;

c. the Board shall conduct all of its proceedings in public. The Board shall not conduct any of its deliberations behind closed doors or in secret;

d. no Board member shall engage in or transact any Board business unless the Board is in session, and the public has been provided with advance notice of the Board meeting; and

e. any person who desires to inspect or copy records submitted to the Board shall be allowed to do so in accordance with the provisions of Section 119.07(1), Florida Statutes (1993).

8. This injunction remains in effect until further order of this Court.

DONE AND ORDERED in Chambers, West Palm Beach, Palm Beach County, Florida, this _____ day of May, 1994.

SIGNED AND DATED

MAY 6 1994

JAMES T. CARLISLE
Circuit Court Judge

JUDGE JAMES T. CARLISLE

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