

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR SARASOTA COUNTY, STATE OF FLORIDA
CIVIL DIVISION A

SARASOTA SURF & RACQUET
CLUB, INC.

Plaintiff(s),

v.

CASE: 2015 CA 2612 NC

SARASOTA COUNTY, FLORIDA, and
FLORIDA DEPT OF REVENUE

Defendant(s).

**ORDER GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT
AND ORDER DENYING DEFENDANT'S MOTION FOR SUMMARY
JUDGMENT**

THIS CAUSE came before the Court on July 7, 2016 on Motions for Summary Judgment filed by each party. Counsel appeared on behalf of the parties. The Court reviewed the file and case law, heard the argument of counsel and is otherwise duly advised in the premises.


On summary judgment, the rule is that the burden to prove the non-existence of genuine triable issues is on the moving party, and the burden of providing the existence of such issues is not shifted to the opposing party until the movant has successfully met his burden. If the record reflects the existence of any genuine issue of material fact or the possibility of any issue, or if the record raises even the slightest doubt that an issue might exist, that doubt must be resolved against the moving party and summary judgment must be denied. The slightest possibility of the existence of a genuine issue of material fact precludes the entry of final summary judgment. *Nard, Inc., v. DeVito Contracting & Supply, Inc.*, 769 So. 2d 1138 (Fla. 2d DCA 2000).

In this case, the Court finds in favor of Plaintiff. The record supports a finding that the reservation and cleaning fees are not subject to the Tourist Development Tax ("TDT") assessed by the county. In support of this ruling, the Court relies upon *Alachua County, Expedia, Inc.*, 175 So.3d 730 (Fla. 2015) as set forth in Plaintiff's motion for summary judgment. The Court rejects the county's argument in support of their motion for summary judgment for reasons set forth herein.

Therefore it is hereby,

ORDERED AND ADJUDGED that Plaintiff's Motion for Summary Judgment is GRANTED and Defendant's Motion for Summary Judgment is DENIED. The Court reserves jurisdiction as entitlement to fees and costs.

DONE AND ORDERED this 08 day of July, 2016 in Sarasota, Florida.



Rochelle T. Curley
Circuit Judge

Cc: Joe Moffa, Attorney for Plaintiff
Jonathan Taylor, Attorney for Plaintiff
Milan Brkich, Attorney for Defendant