

Complaint – Intentional violation Open Meetings Act, Act 267 of 1976 (OMA)

MCL 15.265(1) a meeting of a public body shall not be held unless public notice is given as provided in this section by a person designated by the public body.

City of Mt. Pleasant, MI Planning Commission,
Kim Ellertson, Lori Gillis, Jeff Jakeway,
Eric Johnson, Michelle Lazarov, Peter Orlik (Chair),
Tim Wolff, in their official capacities as members of
the Mt. Pleasant Planning Commission,
Tony Kulick in his official capacity as secretary of
the Mt. Pleasant Planning Commission

hereinafter “Commission”

August 2, 2007 at approximately 5:30p the Commission convened a special meeting for the purpose of discussing zoning ordinance text change recommendations. Subsequent to roll call and prior to discussing zoning ordinance text change recommendations, the Commission was informed meeting notice had not been posted in the manner required by the OMA. On recognition of failure to provide public notice in the manner required by the OMA, the Commission proceeded with discussion and determination of zoning ordinance text change recommendations.

Claims:

- 1) The Commission is a “public body” subject to the act. – MCL 15.262(a)
- 2) Determination of zoning ordinance text change recommendations formulates public policy on which the Commission is required to vote and constitutes a “decision” pursuant to the act. – MCL 15.262(d)
- 3) The 08/02/07 5:30p gathering of 7 members, a quorum of the Commission, for the purpose of discussing and determining zoning ordinance text change recommendations constitutes a “meeting” pursuant to the act. – MCL 15.262(b)
- 4) The act requires public notice of a special meeting be posted at least 18 hours before the meeting. – MCL 15.265(4)
- 5) The minimum 18-hour notice requirement is not fulfilled if the public is denied access to the notice for any part of the 18 hours. – Michigan Attorney General Opinion No. 5724
- 6) The attorney general, prosecuting attorney of the county in which the public body serves, or a person may commence a civil action to compel compliance or to enjoin further noncompliance. – MCL 15.271(1)

- 7) A public official who intentionally violates this act is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00. – MCL 15.272(1)
- 8) Members of the Mt. Pleasant Planning Commission and the Secretary of the Planning Commission are “public officials” subject to the act.
- 9) The Commission customarily posts meeting notices inside its principle office located at 401 N. Main St. Mt. Pleasant, MI., and on the City’s website under headings of “Meetings” and “Public Hearings and Notices”, and on cable television channel 26 “Meetings Schedule”.
- 10) The Commission did not post notice of the 08/02/07 5:30p special meeting on the City’s website, on cable television channel 26, or elsewhere outside its principle office.
- 11) Notice of the 08/02/07 5:30p special meeting was not accessible to the public for an 18-hour period prior to the meeting.
- 12) The Commission was informed and acknowledged public notice for the special meeting 08/02/07 5:30p had not been posted in a manner that fulfilled OMA requirements prior to commencement of deliberations.

Request for Relief

Wherefore the Commission acted intentionally in its disregard for the requirements of the Open Meetings Act, the court is requested to find each of the public officials in attendance at the 08/02/07 5:30p special meeting guilty of a misdemeanor and impose fines in amounts it determines sufficient to compel compliance with regulations.