



State of Rhode Island and Providence Plantations

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*Peter F. Neronha*  
*Attorney General*

**VIA EMAIL ONLY**

March 05, 2020

OM 20-13

Ms. Kelly Stewart

Michael A. Ursillo, Esquire  
Town Solicitor, Town of West Greenwich

**RE: Stewart v. West Greenwich Planning Board**

Dear Ms. Stewart and Attorney Ursillo:

We have completed an investigation into the Open Meetings Act (“OMA”) complaints filed by Ms. Kelly Stewart (“Complainant”) against the West Greenwich Planning Board (“Board”).<sup>1</sup> For the reasons set forth herein, we find that the Board committed a technical violation of the OMA but there is no need for injunctive relief and no evidence of a willful or knowing violation.

**Background**

The Complainant contends that the Board violated the OMA when it failed to post the minutes for its September 16, 2019 and December 16, 2019 meetings on the Secretary of State’s website within 35 days of the meeting.<sup>2</sup>

The Board submitted a substantive response through counsel, Michael A. Ursillo, Esquire, which included an affidavit from Deputy Town Clerk Kaitlin Boyd. The Board acknowledges that it

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<sup>1</sup> The Complainant submitted two (2) OMA complaints against the Board. As both complaints involve the same parties and substantively similar allegations, we will consolidate the complaints and issue one (1) finding.

<sup>2</sup> After filing her complaint, the Complainant raised a new, additional allegation related to the December 16, 2019 meeting minutes, asserting that the minutes “lack[] pertinent information, specifically the information regarding the expert witness[.]” This allegation is outside the scope of the complaint and in any event, does not seem to allege a violation of any requirement of the OMA. See R.I. Gen. Laws § 42-46-7(d) (stating requirements for meeting minutes).

“inadvertently failed to post the [September 16, 2019 and December 16, 2019] minutes on the Secretary of State’s website within the deadline required by the [OMA].” The Board indicated that the Deputy Town Clerk has taken steps to ensure these oversights do not occur in the future and that the Town Solicitor’s Office will be conducting a training for Town employees on the provisions of the OMA.

Based on this Office’s independent search, the Board’s September 16, 2019 minutes were posted on the Secretary of State’s website on November 19, 2019 and its December 16, 2019 minutes were posted on February 3, 2020.

We acknowledge Complainant’s rebuttal.

Relevant Law & Findings

When we examine an OMA complaint, our authority is to determine whether a violation of the OMA has occurred. *See* R.I. Gen. Laws § 42-46-8. In doing so, we must begin with the plain language of the OMA and relevant caselaw interpreting this statute.

The OMA provides that:

“All public bodies shall keep official and/or approved minutes of all meetings of the body and shall file a copy of the minutes of all open meetings with the secretary of state for inspection by the public within thirty-five days of the meeting[.]” R.I. Gen. Laws § 42-46-7(d).

Pursuant to section 7(d) quoted above, the Board was required to file its September 16, 2019 minutes no later than October 21, 2019 and its December 26, 2019 minutes no later than January 20, 2020. The Board concedes that it did not timely file meeting minutes for its September 16, 2019 and December 16, 2019 meetings. As such, the Board violated the OMA.

Conclusion

The OMA provides that the Office of the Attorney General may institute an action in Superior Court for violations of the OMA on behalf of a complainant or the public interest. *See* R.I. Gen. Laws § 42-46-8(a), (e). The Superior Court may issue injunctive relief and declare null and void any actions of the public body found to be in violation of the OMA. *See* R.I. Gen. Laws § 42-46-8(d). Additionally, the Superior Court may impose fines up to \$5,000 against a public body found to have committed a willful or knowing violation of the OMA. *Id.*

Injunctive relief is not appropriate here because the meeting minutes have already been posted on the Secretary of State’s website. Nor do we find sufficient evidence of a willful or knowing violation of the OMA. We observe that there are no recent similar violations found against the Board. We also note the Board’s representation that it has taken measures and will provide training to its staff in order to avoid future similar violations. This finding serves as notice that the conduct

discussed herein violates the OMA and may serve as evidence of a willful or a knowing violation in any similar future situation.

Although the Office of the Attorney General will not file suit in this matter, please be advised that nothing within the OMA prohibits an individual from instituting an action for injunctive or declaratory relief in Superior Court. *See* R.I. Gen. Laws § 42-46-8(c). The OMA allows the Complainant to file a complaint within ninety (90) days from the date of the Attorney General's closing of the complaint or within one hundred eighty (180) days of the alleged violation, whichever occurs later. *See id.* Please be advised that we are closing this Complaint as of the date of this letter.

We thank you for your interest in keeping government open and accountable to the public.

Sincerely,

PETER F. NERONHA  
ATTORNEY GENERAL

By: /s/ Kayla E. O'Rourke  
Kayla E. O'Rourke  
Special Assistant Attorney General