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Judge to hospital: shine a light
Mason wins lawsuit regarding public meeting violations

Hudson County Superior Court Judge John O'Shaughnessy ruled June 30 that the government body overseeing Hoboken's only hospital has repeatedly violated state laws about open public meetings, and that they were deficient in their response to a citizen's request for information.

The decision was in response to a lawsuit filed by 2nd Ward Councilwoman Beth Mason against the relatively new Hoboken Municipal Hospital Authority (HMHA) in 2007. Mason has filed a number of lawsuits charging that the city has failed to make certain records and meetings open to the public. Mason, who was elected to her council seat in May of 2007, had filed the suits while still a private citizen.

The city's only hospital, formerly known as St. Mary Hospital, was about to close in 2006 due to financial troubles. The facility was taken over by the city and renamed Hoboken University Medical Center. The City Council voted to bond for \$52 million to save the hospital, a controversial measure because - while many people fought to save the hospital - some worried that the taxpayers would have to pay if it failed financially.

The city formed the Hoboken Municipal Hospital Authority to run the hospital, but the HMHA apparently did not always provide adequate notice of its public meetings.

The judge released the decision regarding Mason's lawsuit on June 30, saying the stakes were high.

"As stressed throughout this decision, the stakes were high, not only for the city of Hoboken, but for its taxpayer citizens, including plaintiff, Ms. Mason," O'Shaughnessy said.

In the last year, the hospital and Mason had both attempted to somehow settle the suit, but could not agree on a settlement.

The decision states, "[T]his court is clearly convinced ... that defendant's actions violated both OPMA and OPRA, including plaintiff's common law right of access."

OPMA is the state's Open Public Meetings Act, and OPRA is the state's Open Public Records Act. Both laws are intended to make sure that

residents have adequate information about their government.

The judge found that there were three counts of public meetings violations, and a fourth count in response to a citizen's request for information.

O'Shaughnessy said that rather than just making a single mistake, the violations were evidence of a "pattern of conduct from approximately June 2006, and certainly into 2007."

But the judge discounted a fifth count against the hospital pertaining to the destruction of a record.

The record in question was an audiotape of a meeting that the recording secretary told the judge was found to be blank after the meeting was over. It was subsequently taped over.

The judge said he believed the secretary's testimony to be "credible." Since she was the only person with first-hand knowledge, he did not find this to be a violation.

What's the result?

While the judge's decision will likely shine a light on the activities of the hospital and other government bodies, the results of the suit had not been determined by press time.

O'Shaughnessy scheduled a meeting with both sides for this past Friday, July 10, to discuss remedies for the violations.

It's possible that remedies could make previously private documents available to the public, shedding more light on the financial situation of the Hoboken University Medical Center.

Violations

The violations stemmed from a series of HMHA meetings in the autumn of 2006 about the fiscal health of the hospital. The judgment says that the HMHA failed to provide sufficient notice of an Oct. 25, 2006 meeting and did not clearly state the purpose of the meeting in advance.

O'Shaughnessy commented on the importance of the meeting in his decision: "The end result was that concerned citizens ... were deprived of a basic right ... to be present and to offer critical comment and oversight."

Many of the documents Mason requested from HMHA Director George Crimmins were incomplete, either with pages, sections, or attachments missing, the judge's decision said.

Much of the missing information was critical to the valuation of the transfer of the hospital from a private entity to a pseudo-public entity, such as a market analysis and property assessments, the judge's decision said.

Scope and range

Crimmins said in an interview last week that O'Shaughnessy "missed the boat," in reference to his decision.

"He did not understand the case," he said.

Crimmins also charged that the judge broadened the scope of the litigation to include more than was necessary.

"He went on an extraneous hunt here," Crimmins said. "There was no attempt [by us] to hide anything."

O'Shaughnessy included in his decision references to a state Local Finance Board meeting in December of 2006, which Mason and husband Ricky Mason attended to address the \$52 million bond being backed by the city.

"I found [Ricky Mason's] testimony, by the way, both compelling and informative," O'Shaughnessy's ruling stated. "[H]e desired that [the hospital] remain open to serve the citizens of Hoboken. He was emphatic, however, that city monies should not be unreasonably risked to accomplish that goal."

The judge added, "[T]he 'liquidation analysis' reviewed by [Mr. Mason] did not address, for instance, the collective bargaining agreements for 100 employees, or [hospital CEO Harvey] Holzberg's severance package."

Judge: Criticism of Mason 'Over the top'

O'Shaughnessy noted in his ruling that the defense appeared to bring other extraneous details into the arguments.

"Defendant's repeated reference to [Mason] ... as having over 100 OPRA or common law document requests ... is not persuasive," O'Shaughnessy said. "The fact the she is extremely conversant as to OPRA [regulations] ... is not, in this court's opinion, something to be condemned."

O'Shaughnessy said that some of the defendant's comments about Mason's other litigation were "over the top."

Last week, Mason said she was glad about the decision.

"I'm thrilled for the people of Hoboken," she said. "Going forward, the public will have an ability to oversee what is going on."

"I wonder why certain City Council people wanted me to drop the lawsuit?" Mason added, referring to a controversial resolution proposed earlier this year by Councilman Ruben Ramos, asking her to drop the lawsuit. Most of the council condemned Ramos for the proposal.

Mason also said the HMHA had refused her last attempt to settle the lawsuit, even after she removed the requirement of paying her legal fees, which had been a point of contention.

Last week, Mason's attorney, Jeffrey Kantowitz, did not want to predict what would be discussed at the resolution meeting. Ira Karasick, the attorney for the hospital in this suit, was not available for comment.

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