

**IN THE CIRCUIT COURT OF MARIES COUNTY  
TWENTY-FIFTH JUDICIAL CIRCUIT  
STATE OF MISSOURI**

RON AND ANNE CALZONE,  
33867 Highway E  
Dixon, MO 65459

Plaintiffs,

v.

MARIES COUNTY COMMISSION; VIC STRATMAN,  
in his official capacity as Maries County  
Commissioner; ED FAGRE, in his official  
capacity as Maries County Commissioner; and  
DOUG DREWEL, in his official capacity as  
Maries County Commissioner;

Serve: Vic Stratman, Presiding Commissioner  
Maries County Commission  
211 Fourth Street  
Vienna, MO 65582

Defendants.

Case No. \_\_\_\_\_

---

**PETITION**

---

1. The Plaintiffs, Ron and Anne Calzone, bring this action seeking judicial enforcement of the requirements of the Sunshine Law, §§ 610.010 to 610.026.
2. The Plaintiffs are authorized to bring this action pursuant to Section 610.027.1, RSMo., because they are aggrieved persons within the meaning of Section 610.027.1.
3. Venue for this action is proper in Maries County Circuit Court pursuant to Section 610.027.1, RSMo., because the Defendants' principal place of business is in Maries County, Missouri.

4. This Court has jurisdiction to issue injunctions to enforce the provisions of the Sunshine Law pursuant to Section 610.030, RSMo.

#### THE SUNSHINE LAW

5. Chapter 610, RSMo., contains statutes requiring — with a few specified limitations — that the meetings, records, and votes of all public bodies must be open to the public; this set of statutes is commonly referred to as the “Sunshine Law.”
6. Section 610.011, RSMo., declares:
  1. It is the public policy of this state that meetings, records, votes, actions, and deliberations of public governmental bodies be open to the public unless otherwise provided by law. Sections 610.010 to 610.200 shall be liberally construed and their exceptions strictly construed to promote this public policy.
  2. Except as otherwise provided by law, all public meetings of public governmental bodies shall be open to the public as set forth in section 610.020, all public records of public governmental bodies shall be open to the public for inspection and copying as set forth in sections 610.023 to 610.026, and all public votes of public governmental bodies shall be recorded as set forth in section 610.015.
7. Put more simply, transparency is the rule for public entities in Missouri. Courts are not at liberty to infer exceptions to this rule; the only permissible exceptions are those established by statute and courts are instructed to construe those exceptions strictly in order to preserve the rule of transparency.
8. Section 610.010(4), RSMo., in relevant part, defines “public governmental body” as “any legislative, administrative, or governmental entity created by the constitution or statutes of this state[.]”

9. Section 610.010(5), RSMo., in relevant part, defines “public meeting” as “any meeting of a public governmental body subject to sections 610.010 to 610.030 at which any public business is discussed, decided, or public policy formulated, whether such meeting is conducted in person or by means of communication equipment, including, but not limited to, conference call, video conference, internet chat, or internet message board. The term ‘public meeting’... shall include a public vote of all or a majority of the members of a public governmental body, by electronic communication or any other means, conducted in lieu of holding a public meeting with the members of the public governmental body gathered at one location in order to conduct public business[.]”
10. Section 610.010(7), RSMo., defines “public vote” as “any vote, whether conducted in person, by telephone, or by any other electronic means, cast at any public meeting of any public governmental body.”
11. Section 610.015, RSMo., states in pertinent part that “[a]ll public meetings shall be open to the public[.]”
12. Section 610.020.1, RSMo., states in pertinent part that “[a]ll public governmental bodies shall give notice of the time, date, and place of each meeting, and its tentative agenda, in a manner reasonably calculated to advise the public of the matters to be considered, and if the meeting will be conducted by telephone or other electronic means, the notice of the of the meeting shall identify the mode by which the meeting will be conducted and the designated location where the public may observe and attend the meeting. If a public body plans to meet by internet chat, internet message board, or other computer link, it shall post a notice of the meeting on its website in addition to its principal office and shall notify the public how to access that meeting. Reasonable notice shall include... posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clear-

ly designated for that purpose at the principal office of the body holding the meeting, or if no such office exists, at the building in which the meeting is to be held.”

13. Section 610.020.2, RSMo., states that the required public notice “shall be given at least twenty-four hours, exclusive of weekends and holidays when the facility is closed, prior to the commencement of any meeting of a government body unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given. Each meeting shall be held at a place reasonably accessible to the public and of sufficient size to accommodate the anticipated attendance by members of the public, and at a time reasonably convenient to the public, unless for good cause such a place or time is impossible or impractical.”
14. Section 610.020.4, RSMo., states that “[w]hen it is necessary to hold a meeting on less than twenty-four hours’ notice, or at a place that is not reasonably accessible to the public, or at a time that is not reasonably convenient to the public, the nature of the good cause justifying that departure from the normal requirements shall be stated in the minutes.”
15. Section 610.022.1, RSMo., states in pertinent part that “no meeting or vote may be closed without an affirmative public vote of the majority of the quorum of the public governmental body. The vote of each member of the public governmental body on the question of closing a public meeting or vote and the specific reason for closing that public meeting or vote by reference to a specific section of this chapter shall be announced publicly at an open meeting of the public governmental body and entered into the minutes.”
16. Section 610.022.2, RSMo., requires “[a] public governmental body proposing to hold a closed meeting or vote [to] give notice of the time, date and place of such a closed meeting or vote and the reason for holding it by reference to the specific exception allowed pursuant to the provisions of section 610.021. Such notice shall comply with the procedures set forth in section 610.020 for notice of a public meeting.”

17. Section 610.027.1, RSMo., states in pertinent part that “[a]ny aggrieved person, taxpayer to, or citizen of, this state... may seek judicial enforcement of the requirements of sections 610.010 to 610.026.”
18. Section 610.027.2, RSMo., states in pertinent part that once a party bringing suit under the Sunshine Law has demonstrated to the court “that the body in question is subject to the requirements of sections 610.010 to 610.026 and has held a closed meeting, record, or vote, the burden of persuasion will be on the body and its members to demonstrate compliance” with the Sunshine Law.
19. Section 610.027.3, RSMo., states:

Upon a finding by a preponderance of the evidence that a public governmental body or a member of a public governmental body has knowingly violated sections 610.010 to 610.026, the public governmental body or the member shall be subject to a civil penalty in an amount of up to one thousand dollars. If the court finds that there is a knowing violation of sections 610.010 to 610.026, the court may order the payment by such body or member of all costs and reasonable attorney fees to any party successfully establishing a violation. The court shall determine the amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the offense, and whether the public governmental body or member of a public governmental body has violated sections 610.010 to 610.026 previously.
20. Section 610.027.4, RSMo., states:

Upon a finding by a preponderance of the evidence that a public governmental body or a member of a public governmental body has purposely violated sections 610.010 to 610.026, the public governmental body or the member shall be subject to a civil penalty in an amount up to five thousand dollars. If the court finds that there was a purposeful violation of sections 610.010 to 610.026, then the court shall order the payment by such body or member of all costs and reasonable attorney fees to any party successfully establishing such a violation. The court shall determine the amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the offense, and whether the public governmental body or member of a public governmental body has violated sections 610.010 to 610.026 previously.
21. Section 610.027.5, RSMo., states in pertinent part that “[u]pon a finding by a preponderance of the evidence that a public governmental body has violated any provision of sections 610.010 to 610.026, *a court shall void any action taken in violation of sections*

*610.010 to 610.026*, if the court finds under the facts of the particular case that the public interest in the enforcement of the policy of sections 610.010 to 610.026 outweighs the public interest in sustaining the validity of the action taken in the closed meeting, record or vote.” [emphasis added]

#### **PARTIES**

22. Plaintiffs Ronald J. Calzone and Anne R. Calzone are both taxpaying residents of Maries County and citizens of Missouri.
23. Defendant Maries County Commission (“the Commission”) is a public governmental body created pursuant to Chapter 49, RSMo.
24. Defendant Vic Stratman is the Presiding Commissioner of the Maries County Commission; he is sued in his official capacity.
25. Defendant Ed Fagre is one of three members of the Maries County Commission; he is sued in his official capacity.
26. Defendant Doug Drewel is one of three members of the Maries County Commission; he is sued in his official capacity.

#### **FACTUAL ALLEGATIONS**

27. The Commission, a public governmental body comprising the three individual defendants sued in their official capacities, held a meeting on the morning of Monday, April 6, 2020 (“the Meeting”), at the Maries County Courthouse.
28. Upon information and belief, the Defendants never “announced publicly at an open meeting” of the Commission their intent to close the Meeting to the public.
29. Upon information and belief, the Defendants did not cite any “specific exception... pursuant to the provisions of section 610.021” that would allow them to close the Meeting to the public.

30. Upon information and belief, the Defendants did not take “a vote of each member of the [Commission] on the question of closing” the Meeting, nor was any such vote recorded into the minutes of an open public meeting.
31. The Plaintiffs believed that at the Meeting the Commission would be considering an ordinance relating to the COVID-19 pandemic which would include a stay at home order.
32. The Plaintiffs wished to attend the Meeting, both to express their opinions about the proposed ordinance and stay home order and also to observe their elected officials as they discussed and voted on this ordinance.
33. Shortly before the Meeting was scheduled to begin the Plaintiffs met Defendant Stratman on the main floor of the Maries County Court House; Stratman informed them that they would not be able to attend the Meeting.
34. Stratman also told the Plaintiffs that he had called other parties who had expressed a desire to attend the Commission meeting and told them that they could not attend because the Courthouse was closed to the public.
35. The Plaintiffs and Stratman stepped outside the Courthouse to continue their conversation and Defendants Fagre and Drewel joined them.
36. The Plaintiffs explained to the Defendants that the Sunshine Law required the Meeting to be open to the public and that the Defendants would be violating the Sunshine Law by prohibiting the public from attending the Meeting.
37. The discussion between the Plaintiffs and the Defendants concluded and the Plaintiffs were not permitted either to reenter the Courthouse or attend the Meeting.
38. The Defendants did not offer the Plaintiffs or most other members of the public an opportunity to observe or otherwise listen in to the Meeting as it was taking place.
39. Although the Defendants excluded the Plaintiffs from the Meeting, the Minutes from the Meeting state that Phelps County Health Department director Ashley Ann, Lieutenant

Scott John, Assessor Dana Simmons, Treasurer Rhonda Slone, Deputy Clerk Renee' Kotwitz, and Collector Jayne Williams were all present for the meeting, and that Linda Adkins and Laura Schiermeier were in attendance via phone. A copy of these Minutes are attached to this Petition as Plaintiffs' Exhibit 1.

40. In the course of the Meeting the Defendants passed Amendment No. 1 to Commission Order No. 2020-3-20 ("the Order"), relating to limits on personal movement of the citizens of Maries County, limits on the use of private business property, and prohibitions of otherwise legal activities; the measure thus adopted further empowered the Director of the Department of Public Health to promulgate rules relating to the Order, and prescribed civil and criminal penalties for violation of the Order. A copy of the order issued by the Commission during the April 6, 2020 Meeting is attached as Plaintiffs' Exhibit 2.
41. Upon information and belief, since April 6, 2020, the Defendants have continued to hold meetings to do business as the Commission, but they have not been posting notices of the meetings nor tentative agendas for those meetings, as required by the Sunshine Law.

#### COUNT ONE

#### **The Defendants knowingly or purposefully violated the Sunshine Law by Excluding the Plaintiffs from the Meeting on April 6, 2020.**

42. The Plaintiffs hereby restate and incorporate paragraphs 1 through 41, above, as if set forth fully herein.
43. Although the Defendants had not taken any action required by the Sunshine Law to close that Meeting to the public, the Defendants nonetheless denied the Plaintiffs the ability to attend or otherwise observe the Meeting.
44. The Plaintiffs explained to the Defendants prior to the Meeting that the Sunshine Law did not permit the Commission to exclude them from an open public meeting, the Defendants



were fully aware that excluding the Plaintiffs from the Meeting would violate the Sunshine Law.

45. Thus, the Defendants' choice to exclude the Plaintiffs from the Meeting was a knowing and/or purposeful violation of the Sunshine Law.
46. The Plaintiffs believe that the need for government transparency is *especially* great in the context of an emergency because government entities may be more inclined than usual to disregard constitutional or statutory limits on their authority or otherwise to adopt policies without appropriate input or oversight from their constituents.

WHEREFORE, the Plaintiffs respectfully ask this Court to enter judgment in their favor, holding that the Defendants knowingly or purposefully violated §§ 610.015, 610.020, and 610.022 by excluding the Plaintiffs from the Commission's open public meeting held on April 6, 2020, or, in the alternative, by treating that meeting as a "closed" meeting without following the procedures the Sunshine Law requires before a public governmental body may hold a "closed" meeting. The Plaintiffs also ask the Court (1) to void any and all actions the Defendants took at the April 6, 2020 meeting, and (2) to enjoin the Commission from holding any future closed meetings without first complying with the procedural requirements of § 610.022.

#### COUNT TWO

**The Defendants violated the Sunshine Law by holding one or more closed meetings between April 7, 2020, and the date on which the Plaintiffs filed this Petition.**

47. The Plaintiffs hereby restate and incorporate paragraphs 1 through 46, above, as if set forth fully herein.
48. The Commission regularly meets on Mondays and Tuesdays each week.

49. Upon information and belief, in the weeks since the Plaintiffs were excluded from the Meeting, the Defendants have continued to hold public meetings within the definition of § 610.010(5).
50. Upon information and belief, the Defendants did not allow members of the public to attend and/or observe the Commission's public meetings held between April 7, 2020, and the date on which the Plaintiffs filed this Petition.
51. Upon information and belief, the Maries County Commission has not included in the minutes of these meetings a statement of "the nature of the good cause justifying that departure from the normal requirements" to meet in a place that is reasonably accessible to the public, as required by 610.020.4, RSMo.

WHEREFORE, the Plaintiffs respectfully ask this Court to enter judgment in their favor, holding that the Defendants knowingly or purposefully violated §§ 610.015, 610.020, and 610.022 by holding meetings between April 7, 2020, and the date on which this Petition was filed without first following the procedures the Sunshine Law requires before a public governmental body may hold a "closed" meeting. The Plaintiffs also ask the Court (1) to void any and all actions the Defendants took at meetings held between April 7, 2020, and the date on which this Petition was filed, and (2) to enjoin the Commission from holding any future closed meetings without first complying with the procedural requirements of § 610.022.

### COUNT THREE

**The Defendants violated the Sunshine Law by holding at least one closed meeting between April 7, 2020 and the date on which the Plaintiffs filed this Petition without complying with the Sunshine Law's express requirements.**

52. The Plaintiffs hereby restate and incorporate paragraphs 1 through 51, above, as if set forth fully herein

53. Upon information and belief, the Defendants are aware of the Sunshine Law's requirement to post timely notice of upcoming meetings, including a tentative agenda for those meetings.
54. Upon information and belief, the Defendants did not post either a notice or a tentative agenda for any meetings the Commission held between April 7, 2020 and the date on which the Plaintiffs filed this Petition.
55. Upon information and belief, up until April 6, 2020, the Commission did routinely comply with the Sunshine Law's requirement to post a timely notice and a tentative agenda for each meeting held by the Commission.
56. Consequently, the Defendants' failure to post timely notice and a tentative agenda for its meetings held from April 7, 2020, forward constitutes a knowing or purposeful violation of the Sunshine Law.

WHEREFORE, the Plaintiffs respectfully ask this Court to enter judgment in their favor, holding that the Defendants knowingly or purposefully violated § 610.020, RSMo., by holding meetings between April 7, 2020, and the date on which this Petition was filed without first posting timely notice and a tentative agenda in a manner reasonably calculated to advise the public of the matters to be considered. The Plaintiffs also ask the Court (1) to void any and all actions the Defendants took at meetings held between April 7, 2020, and the date on which this Petition was filed, and (2) to enjoin the Commission from holding any future meetings without first complying with the notice requirements of § 610.020, RSMo.

**PRAYER FOR RELIEF**

In sum, the Plaintiffs ask the Court to grant them the following relief:

- (1) to issue a Temporary Restraining Order enjoining the enforcement of all ordinances and orders the Commission approved at any meeting held from April 6, 2020, to the date on

which the Plaintiffs filed this Petition;

- (2) to issue a Temporary Restraining Order to enjoin the Defendants from holding any future meetings unless the meetings are either open to the public or unless the Commission has followed all procedures the Sunshine Law requires before a public governmental body is permitted to hold a closed public meeting;
- (3) to issue a Temporary Restraining Order to enjoin the Defendants from holding any future meetings without following the notice and records procedures expressly required by §§ 610.015, 610.022 and 610.022, RSMo.;
- (4) to issue a declaratory judgment stating that the Defendants violated the Sunshine Law by denying the Plaintiffs access to the Meeting;
- (5) to issue a declaratory judgment stating that the Defendants violated the Sunshine Law by holding one or more closed meetings without following the procedures expressly required by § 610.022, RSMo.;
- (6) to issue a declaratory judgment stating that the Defendants violated the Sunshine Law by failing to post notice of public meetings held between April 7, 2020, and April 20, 2020, as required by § 610.020, RSMo.;
- (7) to issue a declaratory judgment stating that the Defendants committed each of the above violations knowingly or purposefully;
- (8) to enjoin the Defendants from holding any future meetings unless the meetings are either open to the public or unless the Commission has followed all procedures the Sunshine Law requires before a public governmental body is permitted to hold a closed public meeting; and

(9) to grant the Plaintiffs any such other relief as the Court deems just and proper under the circumstances.

Respectfully Submitted,

---

Ronald J. Calzone, pro se.  
33867 Highway E  
Dixon, MO 65459

---

Anne R. Calzone, pro se.  
33867 Highway E  
Dixon, MO 65459

**Certificate of Service**

I, Ronald J. Calzone, and Anne R. Calzone do hereby certify that a true and correct copy of the foregoing petition was provided to the Maries County Sheriff on, April 20, 2020, to be served on the following defendants.

Vic Stratman, Presiding Commissioner  
Maries County Commission  
211 Fourth Street  
Vienna, MO 65582  
DEFENDANTS

By     /s/ Ron Calzone      
Ronald J. Calzone, pro se  
33867 Highway E  
Dixon, MO 65459  
PLAINTIFF

By     /s/ Anne Calzone      
Anne R. Calzone, pro se  
33867 Highway E  
Dixon, MO 65459  
PLAINTIFF

---