

IN THE CHANCERY COURT FOR KNOX COUNTY TENNESSEE

WAYNE & JANIS WAGGONER, *et al*

Plaintiffs

v.

**No. 167896-3
Transferred to Honorable
Daryl R. Fansler**

**KNOX COUNTY, TENNESSEE and
THE KNOXVILLE-KNOX COUNTY
METROPOLITAN PLANNING COMMISSION
and THE DEVELOPMENT CORPORATION OF
KNOX COUNTY**

Defendants

**MOTION TO AMEND
COMPLAINT FOR DECLARATORY JUDGMENT,
WRIT OF CERTIORARI and INJUNCTIVE RELIEF**

Come your Plaintiffs, by and through their counsel, and move to amend their complaint by adding the following paragraphs to their previously amended complaint and would show the Court that the information giving rise to the averments added came to light after the filing of the amended complaint herein.

**COUNT III
VIOLATION OF TENNESSEE “OPEN MEETINGS” ACT**

25. Plaintiffs aver that on or about June 22, 2006, at or around 8:30 a.m., between fourteen (14) and sixteen (16) of the Knox County Commissioners met at the offices of the Knoxville Association of Realtors (f/k/a and a/ka Knoxville Board of Realtors).

26. At that non-public meeting, the Defendant Development Corporation solicited

the support of the commissioners for the re-zoning and purchase of the Midway Road Property subject of this lawsuit. There was discussion among the commissioners about the Midway Road project which constituted a deliberation on the issue.

27. At this meeting the Knoxville Board of Realtors also solicited the support of the commissioners for the re-zoning and purchase of the Midway Road Property subject of this lawsuit. Subsequent to that solicitation, the Knoxville Board of Realtors presented the commissioners campaign contribution checks.

28. The meeting of the commissioners constituted a quorum of the Knox County Commission.

29. The meeting of the commissioners was a “meeting” as defined in Tennessee Code Annotated § 8-44-102.

30. The public was not given notice of this meeting of commissioners, nor was the meeting open to the public as required by Tennessee Code Annotated § 8-44-103.

31. At the time of the meeting, the commissioners knew that the purchase and re-zoning of the Midway Road property for an industrial park was a very controversial public issue. Notwithstanding, the commissioners chose to meet for discussion and deliberation on the issue.

32. All of such actions constitute a violation of the Tennessee Open Meetings Act (T.C.A. § 8-44-101 *et seq*) which purpose as set out by the Legislature is:

“ The general assembly hereby declares it to be the policy of this state that the formation of public policy and decisions is public business and shall not be conducted in secret.”
T.C.A. § 8-44-101.

33. Plaintiffs have standing, and this Court has jurisdiction to hear this matter pursuant to T.C.A. § 8-44-106.

34. Plaintiffs aver that the action taken by Knox County Commission in approving funding for and rezoning of the Midway Road Industrial Park project be nullified pursuant to T.C.A. § 8-44-105.

Further Plaintiffs move to amend ¶ 3 of their Complaint to read as follows:

3. Plaintiffs seek a writ of certiorari as to actions of the Knoxville-Knox County Metropolitan Planning Commission (MPC), pursuant to Tennessee Code Annotated § 27-9-102 **and common law writ of certiorari as provided in T.C.A. § 27-8-101.**

Further Plaintiffs move to amend their prayer for relief by adding the following paragraph:

7. Plaintiffs pray this Honorable Court to find that the County Commission violated the State Open Meetings Act and to nullify the action taken by the Commission in approving the funding for, and the re-zoning of, the Midway Road Industrial Park

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the forgoing pleading was mailed to all opposing counsel by United States Mail, postage paid, or was hand-delivered to opposing counsel this _____ day of _____, 2007.

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