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Meetings violation claimed

BY MELISSA HAYES

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John Paff isn't a resident of Englewood Cliffs — in fact he lives 60 miles away. And he's never set foot in the borough, but that hasn't stopped him from suing the Board of Education, alleging it violated the state's open public meetings laws.

Paff, a Libertarian, says he is trying to ensure both the school board and the Borough Council comply with the Open Public Records Act, often called OPRA, and the Open Public Meetings Act or Sunshine Law.

And he's not doing it just in Englewood Cliffs. Paff goes after towns when he thinks there are blatant violations.

OPRA was put in place in 2001 with the goal of increasing transparency by making it easier to obtain public documents detailing government operations, like bills showing how much a municipality spent or a contract detailing services a company was hired to perform. However, there is no agency regularly checking in to make sure towns,



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school boards and other public agencies comply with the law. Without a watchdog, people like Paff find that information is not released in a timely fashion or requests are denied even though the records should be made public. Sometimes, documents are released only after the denial is challenged.

When requests are not filled on time or are rejected, the issue can be taken to the Government Records Council, which decides whether the law was violated and can levy fines of \$1,000 to \$5,000. But people seeking the records must file a complaint.

"It seems to me I shouldn't have to do all this," Paff said. "There should be a compliance officer."

All 21 counties

Paff represents himself in all of his court cases because the laws don't allow him to seek attorney costs. He is attempting to file a case in each of the state's 21 counties to highlight non-compliant governing bodies and use what he hopes will be court wins to force other towns to adhere to the laws.

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Englewood Cliffs is his first Bergen County Sunshine Law case. In the past decade, he has filed suits against 17 Atlantic County municipalities, winning against one town and settling with the others.

He won most of the issues he raised in cases in Camden County, Monmouth County, Ocean County and Hudson County. He is waiting for a hearing in Cumberland County.

He has also raised countless OPRA violations.

Paff said he chose Englewood Cliffs after visiting the borough's website and seeing it was outdated, listing public officials who are no longer in office, and lacked basic information, such as meeting dates and agendas.

"Somebody's got to do it, and I'll try it and we'll see what the court says it means," he said.

He filed his suit against the Englewood Cliffs Board of Education on March 12 in Superior Court in Hackensack in response to records he received from the district that he claims showed violations.

For instance, he claims that the board should pass a resolution each time it enters closed session. Instead, it relies on a blanket



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resolution, which is adopted once a year.

Paff also alleges, based on the minutes he received, that the board is discussing issues in closed session that are not exceptions to the law and should be open to the public, such as the annual audit and the school budget.

But he also said the board keeps poor minutes, so there may not be a violation, but there appears to be.

"Maybe it is covered under an exemption, but because of the brevity, the terseness of the minutes, I can't even tell what they're talking about," he said.

The board's attorney, Stephen Fogarty, did not respond to requests for comment.

Board President Frank Patti Jr. also declined to comment before consulting with Fogarty.

Updating the laws

State Senate Majority Leader Loretta Weinberg, D-Teaneck, championed the laws

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and is pushing for amendments that would allow people like Paff to seek reimbursement for attorney fees and make it easier for residents to obtain public records.

The amendments would upgrade the laws, which were written before social media, text messaging and other technologies were being widely used. The changes would prohibit local officials from texting or emailing to communicate at a meeting instead of discussing the issues publicly. The changes would also encourage municipalities with websites to post meeting minutes, agendas and other documents online, so that residents do not need to file a records request to access the information.

While Weinberg said she appreciates Paff's efforts, in some cases she said it could cause more harm than help.

Could be harmful

"I respect his crusading attitude and he's added some input into the legislation that's working through the Legislature, but it also has a negative impact because it makes municipalities not want to cooperate," she said.

Weinberg said she wants to create an environment where officials understand everything should be out in the open, with



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the exception of certain exemptions, such as contract negotiations and discussions of legal settlements.

"If it was all out in the open, you wouldn't have Mr. Paff filing all these lawsuits," she said.

Garfield Municipal Clerk Andrew Pavlica, president of the Municipal Clerks Association of New Jersey, said residents are entitled to records and municipal clerks or designated records custodians have to grant that access.

But he said complying within the seven-day time constraint set by OPRA can sometimes be hard when government is cutting back on its workforce.

"You want to comply with the law, you're under oath to adhere to the law but sometimes there are circumstances that make it difficult," he said.

Asked about Paff gathering documents from across the state, Pavlica said it doesn't matter why someone is making a request.

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"We're under oath to adhere to the law and we shouldn't question why anyone is requesting the record and we have a moral obligation to serve the public to the best of our ability and put forth a good-faith effort," he said.

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