

**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

State of Ohio)	
Ex rel. GARRY KANTER)	CASE NO.:
3624 Cummings Rd)	
Cleveland Hts, OH 44118)	
)	
Relator.)	
)	
v.)	
)	VERIFIED COMPLAINT
CITY OF CLEVELAND HEIGHTS)	IN MANDAMUS AND FOR
CITY COUNCIL)	INJUNCTION
40 Severance Circle,)	
Cleveland Heights, Ohio 44118)	
)	
Respondent.)	

JURISDICTION

This Court has original jurisdiction of this action under R.C. 121.22.

STATEMENT OF FACTS

Based on the attached affidavit and exhibits Relator Garry Kanter (“Relator”) alleges:

1. Relator resides in the City of Cleveland Heights Cuyahoga County, Ohio.
2. The City of Cleveland Heights City Council (“Council”) is composed of seven elected representatives: Dennis Wilcox, Cheryl Stephens, Jeff Coryell, Mary Dunbar, Kahlil Seren, Jason Stein, and Melissa Yasinow.
3. The Council formed a ‘Committee of the Whole’ comprising all members of Council, which has met to discuss public business regularly every week from March 3, 2014 until now or at least 84 times. Affidavit, Ex. 1.
4. The Council has only published agendas for each meeting, but has not kept nor published any meeting minutes from these Committee of the Whole Meetings. *Id.*
5. The Cleveland Heights Youth Advisory Commission met 5 times in 2014. On April 16, May

- 21, and December 4, 2014 no minutes were kept of the meetings. Affidavit, Ex 2.
6. The Cleveland Heights Architectural Board of Review met on four times in 2015. No minutes were kept of those meetings. Affidavit, Ex. 3.

COUNT ONE: VIOLATION OF R.C. 121.22(C) FOR FAILURE TO KEEP MINUTES

5. Relator incorporates the above paragraphs as if rewritten.
6. Section III-7 of the City of Cleveland Heights Charter (“Charter”) states, “the Council shall meet at such times and at such public places within the City of Cleveland Heights as may be prescribed by ordinance or resolution. Four members shall constitute a quorum.”
7. Section III-8 of the Charter states, “The Council shall determine its own rules and order of business, provide for special meetings and keep a journal of its proceedings.”
8. Section 107.04 of the Codified Ordinances of the City of Cleveland Heights (“the Code”) states, “The minutes of all regular, special and emergency meetings of Council, shall be promptly recorded in writing and open to the public for inspection. Minutes of Council committee meetings may be recorded in writing. Minutes of executive sessions of public bodies need only reflect the general subject matter of discussion in such executive sessions.”
9. Where meeting is not defined in a city charter it is taken to mean “*any* assemblage of the city council or its committees where a majority of members constituting the body are in attendance and the gathering is arranged for the purpose of discussing public business.” *State ex rel. Plain Dealer Publishing Co. v. Barnes*, 38 Ohio St.3d 165, 165 (1988).
10. R.C. 121.22 (C) requires “The minutes of a regular or special meeting of any public body shall be promptly prepared, filed, and maintained and shall be open to public inspection. The minutes need only reflect the general subject matter of discussions in executive sessions.”
11. R.C. 121.22 is not superseded nor contradicted by the Charter and follows the Code; therefore it applies to the actions of the Council.

12. The ‘Committee of the Whole’ constituted an assemblage of more than a majority or a quorum of Council members, which discussed public business without preparing, filing, maintaining, and publishing meeting minutes in direct violation of R.C. 121.22(C). .

**COUNT TWO: VIOLATION OF SECTION 107.04 OF THE CODIFIED ORDINANCES OF
THE CITY OF CLEVELAND HEIGHTS FOR FAILURE TO KEEP MINUTES**

13. Relator incorporates the above paragraphs 1-9 as if rewritten.

14. The ‘Committee of the Whole’ constituted an assemblage of more than a majority or a quorum of Council members, which discussed public business without preparing, filing, maintaining, and publishing meeting minutes in direct violation of their duty required by Section 107.04 the Code.

WHEREFORE, Relator moves this Court to levy a five hundred dollar civil forfeiture against the City of Cleveland Heights City Council under R.C. § 121.22(I)(2)(a) for each improper meeting held. Relator seeks injunctive relief, under R.C. 121.22 (I)(1), barring the Council from convening ‘Committee of the Whole’ meetings without preparing, filing, maintaining, and publishing meeting minutes. Relator asks this Court to issue a Writ of Mandamus to compel the Council to prepare, file, maintain, and publish past and future meeting minutes for all ‘Committee of the Whole’ meetings under their duties prescribed in Section 107.04 of the Code and R.C. 121.22(C). Finally, Relator requests that the Court award reasonable attorney’s fees under R.C. 121.22(I)(2)(a).

Respectfully Submitted,

/s/Warner Mendenhall
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Attorney for Relator
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Akron, OH 44304
330.535.9160
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warnermendenhall@gmail.com

AFFIDAVIT VERIFYING THE COMPLAINT

State of Ohio)
) ss
County of Summit)

Now Garry Kanter, a resident of the City of Cleveland Heights who swears and affirms the following facts included in the foregoing Complaint are based on his personal knowledge of the operations of the City of Cleveland Heights, Ohio:

1. Relator resides in the City of Cleveland Heights Cuyahoga County, Ohio.
2. The City of Cleveland Heights City Council (“Council”) is composed of seven elected representatives: Dennis Wilcox, Cheryl Stephens, Jeff Coryell, Mary Dunbar, Kahlil Seren, Jason Stein, and Melissa Yasinow.
3. The Council formed a ‘Committee of the Whole’ comprising all members of Council, which has met to discuss public business regularly every week from at least March 3, 2014 until now—at least 84 times in the last two years. Exhibit 1.
4. The Council has published agendas for each meeting, but has failed to keep or publish meeting minutes from these Committee of the Whole Meetings. Exhibit 1.
5. The Cleveland Heights Youth Advisory Commission met 5 times in 2014. On April 16, May 21, and December 4, 2014 no minutes were kept of the meetings. Ex 2.
6. The Cleveland Heights Architectural Board of Review met four times in 2015.

No minutes were kept of those meetings. Ex. 3.


Garry Kanter

Sworn to and subscribed in my presence on this 6th day of November, 2015.


Notary Public

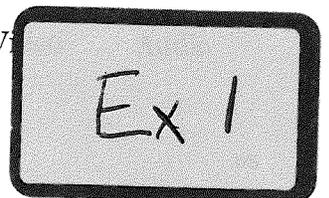


WARNER MENDENHALL
ATTORNEY AT LAW
NOTARY PUBLIC
STATE OF OHIO
Sec 147.03 O.R.C.
My commission has no expiration

Agendas and Minutes

City Council Meetings 2015

DATE	CCW					
January 5, 2015	Agenda	Agenda	Legislation	Minutes	Video	Audio
January 12, 2015	Agenda					
January 20, 2015	Agenda	Agenda	Legislation	Minutes	Video	Audio
January 26, 2015	Agenda					
February 2, 2015	Agenda	Agenda	Legislation	Minutes	Video	Audio
February 9, 2015	Agenda					
February 12, 2015	Agenda					
February 17, 2015	Agenda	Agenda	Legislation	Minutes	Video	Audio
February 23, 2015	Agenda					
March 2, 2015	Agenda	Agenda	Legislation	Minutes	Video	Audio
March 9, 2015	Agenda					
March 16, 2015	Agenda	Agenda	Legislation	Minutes	Video	Audio
March 23, 2015	Agenda					
March 30, 2015 (Joint Boards)	Agenda	Agenda				
April 6, 2015	Agenda	Agenda	Legislation	Minutes	Video	Audio
April 13, 2015	Agenda					
April 20, 2015	Agenda	Agenda	Legislation	Minutes	Video	Audio
April 27, 2015	Agenda					
May 4, 2015	Agenda	Agenda	Legislation	Minutes	Video	Audio
May 11, 2015	Agenda					
May 18, 2015	Agenda	Agenda	Legislation	Minutes	Video	Audio
June 1, 2015	Agenda	Agenda	Legislation	Minutes	V	
June 8, 2015	Agenda					



June 15, 2015	Agenda	Agenda	Legislation	Minutes	Video	Audio
June 22, 2015	Agenda					
June 29, 2015	Agenda					
July 6, 2015	Agenda	Agenda	Legislation	Minutes	Video	Audio
July 13, 2015 (Joint Boards)	Agenda	Agenda				
July 20, 2015	Agenda	Agenda	Legislation	Minutes	Video	Audio
July 27, 2015	Agenda					
August 3, 2015	Agenda	Agenda	Legislation	Minutes	Video	Audio
August 10, 2015	Agenda					
August 17, 2015	Agenda	Agenda	Legislation		Video	Audio
August 24, 2015	Agenda					
August 31, 2015	Agenda					
September 8, 2015	Agenda	Agenda	Legislation		Video	Audio
September 16, 2015	Agenda					
September 21, 2015	Agenda	Agenda	Legislation		Video	Audio
September 30, 2015	Agenda					
October 5, 2015	Agenda	Agenda	Legislation		Video	Audio
October 12, 2015	Agenda					
October 19, 2015	Agenda	Agenda	Legislation		Video	Audio
October 26, 2015	Agenda					
November 2, 2015	Agenda	Agenda	Legislation			Audio
November 9, 2015	Agenda					

Architectural Board of Review Meetings 2015

DATE

September 16, 2015

Agenda

2014 Archived Agendas and Minutes

City Council Meetings 2014

DATE	DURATION					
January 6, 2014	01h 09m	Agenda	Legislation	Minutes	Video	Audio
January 21, 2014	00h 45m	Agenda	Legislation	Minutes	Video	Audio
February 3, 2014	00h 47m	Agenda	Legislation	Minutes	Video	Audio
February 18, 2014	01h 18m	Agenda	Legislation	Minutes	Video	Audio
March 3, 2014	02h 50m	Agenda	Legislation	Minutes	Video	Audio
March 17, 2014	00h 39m	Agenda	Legislation	Minutes	Video	Audio
April 7, 2014	01h 29m	Agenda	Legislation	Minutes	Video	Audio
April 23, 2014	00h 31m	Agenda	Legislation	Minutes	Video	Audio
May 5, 2014	01h 45m	Agenda	Legislation	Minutes	Video	Audio
May 19, 2014	00h 25m	Agenda	Legislation	Minutes	Video	Audio
June 2, 2014	00h 32m	Agenda	Legislation	Minutes	Video	Audio
June 16, 2014	00h 54m	Agenda	Legislation	Minutes	Video	Audio
July 7, 2014	01h 17m	Agenda	Legislation	Minutes	Video	Audio
July 21, 2014	00h 44m	Agenda	Legislation	Minutes	Video	Audio
August 6, 2014	00h 32m	Agenda	Legislation	Minutes	Video	Audio
August 18, 2014	00h 36m	Agenda	Legislation	Minutes	Video	Audio
August 25, 2014	00h 10m	Agenda	Legislation	Minutes	Video	Audio
September 2, 2014	00h 50m	Agenda	Legislation	Minutes	Video	Audio
September 15, 2014	00h 33m	Agenda	Legislation	Minutes	Video	Audio
October 6, 2014	00h 50m	Agenda	Legislation	Minutes	Video	Audio
October 20, 2014	00h 34m	Agenda	Legislation	Minutes	Video	Audio
November 3, 2014	01h 06m	Agenda	Legislation	Minutes	Video	Audio
November 17, 2014	00h 23m	Agenda	Legislation	Minutes	Video	Audio
December 1, 2014	00h 41m	Agenda	Legislation	Minutes	Video	Audio
December 15, 2014	01h 08m	Agenda	Legislation	Minutes	Video	Audio

Council Committee of the Whole Meetings 2014

DATE	
March 3, 2014	Agenda
March 10, 2014	Agenda
March 17, 2014	Agenda

March 24, 2014	Agenda
March 31, 2014	Agenda
April 7, 2014	Agenda
April 23, 2014	Agenda
April 28, 2014	Agenda
May 5, 2014	Agenda
May 12, 2014	Agenda
May 19, 2014	Agenda
May 27, 2014	Agenda
June 2, 2014	Agenda
June 9, 2014	Agenda
June 16, 2014	Agenda
June 23, 2014	Agenda
July 7, 2014	Agenda
July 14, 2014	Agenda
July 21, 2014	Agenda
July 28, 2014	Agenda
August 6, 2014	Agenda
August 11, 2014	Agenda
August 18, 2014	Agenda
August 25, 2014	Agenda
September 2, 2014	Agenda
September 8, 2014	Agenda
September 15, 2014	Agenda
September 22, 2014	Agenda
September 29, 2014	Agenda
October 6, 2014	Agenda
October 13, 2014	Agenda
October 20, 2014	Agenda
October 27, 2014	Agenda
November 3, 2014	Agenda
November 10, 2014	Agenda
November 17, 2014	Agenda
November 24, 2014	Agenda

Architectural Board of Review Meetings 2015

DATE

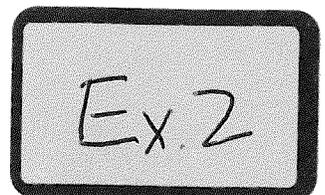
September 16, 2015

Agenda

September 21, 2015

Agenda

Plans



DATE

October 7, 2015

Agenda

October 20, 2015

Agenda

Youth Advisory Commission 2014

DATE				
January 22, 2014		<u>Agenda</u>		<u>Minutes</u>
February 19, 2014		<u>Agenda</u>		<u>Minutes</u>
April 16, 2014		<u>Agenda</u>		
May 21, 2014		<u>Agenda</u>		
December 4, 2014		Agenda		

Ex. 3