

SUPREME COURT OF THE STATE OF NEW YORK

2d Dept

COUNTY OF ORANGE

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Application of ORANGE COUNTY PUBLICATIONS
DIVISION OF OTTAWAY NEWSPAPERS, INC.,

Decision

Petitioner,

-against-

Index #5686-78
Motion Date: 6-27-83
Calendar #10

THE COUNTY OF ORANGE, THE LEGISLATURE OF THE
COUNTY OF ORANGE, and THE RULES, ENACTMENTS
AND INTERGOVERNMENTAL RELATIONS COMMITTEE OF
THE LEGISLATURE OF THE COUNTY OF ORANGE,

Respondents.

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NEW YORK STATE
COMMITTEE ON
OPEN GOVERNMENT

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ISSEKS, J.

Petitioner brings this proceeding under Article 78 of the CPLR for a direction from this Court that the respondents have failed to comply with the provisions of the Open Meetings Law, and also to declare that the meeting held by the Rules, Enactments and Intergovernmental Committee of the Legislature of the County of Orange was a public meeting within a meaning of the Open Meetings Law and to order that respondent admit the petitioner and the public to all such public meetings. They also request an award for punitive damages and an award for attorneys fees.

A regular meeting of the above committee, which is one of the subcommittees of the legislature of Orange County, was held on January 20, 1983 at approximately 3 p.m. in Room 301 of the Orange County Government Center, Goshen, New York. The meeting was called

to discuss, among other things, salaries for two elected positions, that is, the Orange County Clerk and the Orange County Sheriff. At approximately 4:25 p.m. this committee went into executive session to discuss the salaries of these two elected positions. The meeting was then closed to the public and members of the media.

Petitioner argues that this action of the committee was in violation of the Open Meetings Law and also of two prior judgments of this Court which had dealt with the legislature and violations of the Open Meetings Law. The respondent argues that the Public Officers Law does not apply to committee meetings of a legislative body such as the situation herein.

This Court concludes that the Open Meetings Law is clear and that it does apply to a subcommittee of a legislature and that it does apply in this case.

The Court also concludes that the executive session held herein was in violation of the Open Meetings Law. The minutes indicate that the discussion which was held concerning a possible salary increase for the County Clerk and the Sheriff mentioned the following criteria:

- 1) Do the positions merit a raise?
- 2) How much?
- 3) Effective date.

It is clear from this criteria that the discussion herein was whether the positions involved, that is, Sheriff and County Clerk,

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merited a raise in salary. There is no showing that the particular persons who held these positions were discussed. In addition, the minutes further show the fact that the Sheriff had not received an increase in salary since January 1, 1978 and that the County Clerk had not received an increase in salary since January 1, 1975 was considered. This shows that the salary histories of the positions were discussed and not the particular persons involved.

The Court directs the respondent to admit the petitioner and the public to all public meetings.

The Court denies the application to award the petitioner punitive damages. The Court directs the respondent to pay attorneys fees to the petitioner pursuant to Public Officers Law, Section 100 subd. 2 in the amount of \$1,500.00.

Submit order and judgment on notice.

DATED: October 26, 1983
Goshen, New York



HON. ABRAHAM ISSEKS
SUPREME COURT JUSTICE

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