

Papers need to sue to make sun shine



Suing weekly publisher gets this column space

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In March, I went to Steelville for a hearing on a Motion for Summary Judgment filed in a sunshine law case which was brought by the Cuba Free Press against the Cuba City Council. The paper complains about three instances where the council met in closed session and then took votes in those closed meetings that went beyond the scope of the reason why the meetings were called.

While I was there, Rob Viehman, publisher of the Cuba Free Press, and I talked about what has happened to him and his paper as a result of the bringing of this case. His thoughts were fascinating.

Bringing a sunshine lawsuit against a public body is not an inexpensive task. Lawyers' fees (even under the discount afforded to MPA members by this firm pursuant to the MPA retainer contract) are a sizeable expense. But Rob had some fascinating thoughts about the benefits of such a suit, and I am turning my column over to him this month to express those.

Our society's laws are only good if they are enforced, and that is especially true of the Missouri Sunshine Law. No matter how the law is finally amended by the Missouri Legislature this session, it's time that newspaper publishers throughout the state stand together and take action to make sure our elected officials are following it. For many years, my newspaper was like the majority of others around the state. Each time our school board or city council held an illegal closed session we would be quick to write an editorial telling our readers their rights had been violated. We would quote the Sunshine Law, making sure we were specific about just how it had been broken and what consequences the board members could face for meeting or acting illegally. It made for a good editorial that Thursday, and good birdcage lining by Saturday.

Sometimes we even confronted aldermen or board members during an actual meeting to challenge their reasons for kicking us, and the public, out of the room. Never had it prevented them from going into a closed session.

Less than six months after I took ownership of the Cuba Free Press in the fall of 2002, I put my money where my ink was and filed suit against the Cuba City Council for its repeated violation of the Sunshine Law. In just the short time I had owned the paper, the council had met illegally three times. And in reviewing minutes from the past two years, I also found several other violations — all done after regular editorials had appeared chastising the mayor and aldermen for meeting illegally. I have to admit I was more than a little hesitant to file the suit. One of our aldermen is co-owner of a large real estate firm in town, another is an optometrist and a third is an investment specialist. All were good advertisers.

After announcing the lawsuit in the newspaper, however, I quickly realized I had done the right thing, no matter what those three advertisers might do. I received numerous compliments for finally standing up to the city. I heard it all from "it's about time" to "I'm so proud of you." There was not one negative comment! I honestly believe nothing I've done in my short tenure as a publisher has helped my credibility more than filing that lawsuit. And as for those three advertisers, they're still with me.

The impact of the suit on the city council was immediate. The council changed its procedures for going into closed sessions and has since talked about topics in open aldermen had previously discussed in private. The city's attorney has pressed me to settle the lawsuit several times, but the aldermen would not agree to admit they had violated the law — something I have demanded from the start.

The case was finally heard March 15, with a ruling scheduled to come by mid-April. Unfortunately, that will be about one week after this year's municipal election. Regardless of the outcome, I've already proven my point.

This lawsuit certainly hasn't been cheap, but I view it as an investment in the future of my publication. To date, it's been worth every penny. And if the judge ultimately rules in my favor, even if the council members aren't fined, I won't be able to put a price tag on the respect it will bring to my newspaper.

The Sunshine Law is worthless unless we are all willing to start making government follow it. And you do that by filing lawsuits, not by just writing editorials.

The next time your city council or school board meets illegally, go ahead and write your editorial. Then call your lawyer!

— Rob Viehman, Cuba Free Press