



Count I of Plaintiff's Complaint alleges that the City of Marseilles and the Commissioners violated the Illinois Open Meetings Act (OMA), 5 ILCS 120/3 et. seq. by holding what plaintiff refers to as "walking quorum" meetings. These meetings are defined by the plaintiff as one on one or a series of small group and individual meetings which were coordinated, back-to-back, continuous contacts which created a continuous deliberative process in which a quorum conducted public business outside of a properly noticed open meeting which violated the OMA and deprived the Plaintiff and the public of lawful open deliberation on a matter of great public importance. As a remedy for the alleged violation of OMA, the Plaintiff requests either: (1) a nullification of the November 5, 2025 vote or (2) an injunction to stop the defendants from using the sub-quorum deliberation method.

Count II recites a history of two members of the governing body of Marseilles being absent when a vote was taken to place the Annexation Agreement in question on file and suggests that the agreement should have been placed on file when all members of the governing body were present.

Count III complains about the period of time between the meeting where the Annexation Agreement and Annexation Ordinance were voted on to be placed on file and the date and time of the scheduling of the public hearing and the insufficient amount of time to review the Annexation Agreement and Annexation Ordinance.

Count IV originally asked for a temporary restraining order and because the vote has already occurred, now requests "declaratory and permanent injunctive relief declaring the Annexation Agreement and Annexation Ordinance null and void and enjoining their implementation".

Count V alleged Ultra Virus Acts and Unlawful Use of Public Funds prior to annexation authority in violation of 65ILCS 5/11-15.1-1 et seq.

Count VI alleges the city had predetermined they would pass the agreement and that because of this, it denied the residents a meaningful public hearing.

There is only one prayer for relief in Plaintiff's Complaint and that prayer asks for 1) A determination by the court that the defendant's annexation related expenditures and planning activities, undertaken prior to lawful annexation authority, be declared ultra virus and unlawful. 2) That the court declare the annexation agreement and ordinance approved on November 5, 2025 void and unenforceable. 3) Enjoin the Defendant from implementing or enforcing the Annexation Agreement and Annexation Ordinance and 4) For such other and further relief, the court deems just and proper.

The Defendants' Motion to Dismiss is pursuant to 735 ILCS 5/2-619.1 (a)(9) and is both a 2-615 and 2-619(a)(9) motion. The 2-615 portion of the motion alleges that the complaint fails to state a cause of action because the allegations of the complaint do not state a violation of the Illinois Open Meetings Act and the 2-619 (a)(9) part of defendants' motion alleges that plaintiff fails to state any violations of either the Illinois Open Meetings Act or the Illinois Municipal Code.

A motion premised 735 ILCS 5/2–615 admits the truth of the facts alleged in the claim, but denies the legal sufficiency of those facts. 2–615 (a) and (b) say that the movant must point out specifically the defects in the Complaint and if the allegation is that the pleading is substantially insufficient at law, specify wherein. The Court must deny a 2-615 motion, if the pleadings present a material issue a fact. The court must accept as true all well pleaded facts and any reasonable inferences from those facts. The court must reject unsupported conclusions of fact and legal conclusions. The standard here is whether the allegations of the complaint, when construed in the light most favorable to the plaintiff, are sufficient to state a cause of action upon which relief can be granted.

Dismissal is appropriate only when “it is apparent that no set of facts could be proven that would entitle the plaintiff to relief.

The plaintiff does not have to prove his case at this stage of the proceedings.

A 2–619 involuntary dismissal motion raises affirmative matters that defeat the claim. The motion admits well pleaded facts but does not admit conclusions of law and conclusory factual allegations unsupported by allegations of specific facts alleged in the complaint.

The motion also does not admit the truth of any allegations in the complaint that may touch on the affirmative matters raised in the 2-619(a)(9) motion to dismiss.

When the court is ruling on a 2-619 motion the court must accept as true all well pleaded facts in the Plaintiff’s complaint, and any reasonable inferences, which arise from those facts.

In relation to Count I, Defendants argue they did not violate the IL Open Meetings Act (OMA) and further argue that this court does not have the authority to declare null and void any action taken at a meeting that complies with the Open Meetings Act. This court agrees with the Defendants argument on this issue. This is a 2-615 motion so the Courts analysis is limited to the four corners of the Complaint. The City of Marseilles is a commission form of government with a five-member public body, so according to Section 1.02 of the OMA, (5 ILCS 120/1 et seq.) when there is a five-member public body, three members form a quorum. Pursuant to the allegations of the complaint, there was never a quorum of three members of the City Council present for any of these meetings, therefore, no violation exists per the allegations of the Complaint. When construing the allegations of Count I in the light most favorable to the plaintiff, the allegations are insufficient to state a cause of action upon which relief can be granted. As this Court finds there was no violation of the OMA, no injunctive relief is available. Defendants also move to dismiss Count I based upon 2-619 arguing that the November 5, 2025 public meeting and vote to approve the Annexation Agreement and Annexation Ordinance was a properly conducted Open Meeting and therefore the Court lacks the authority to void the vote taken by the Defendants. Defendants have attached to their pleadings on the Motion to Dismiss a Certificate of Publication showing that the public was put on notice of the November 5, 2025 public hearing date. Again, Plaintiff fails to allege a viable violation of the OMA in order for this Court to invoke the remedy of revoking action taken by the public body that was not done at a proper Open Public Meeting. Count I is dismissed with prejudice.

Count II is also dismissed with prejudice. Vague allegations in the Complaint propret to allege a chronic failure of Commissioner(s) to attend meetings without supporting facts as to who those Commissioners were and when they failed to attend meetings. Additional allegations suggest that because two Commissioners were absent from the October 15, 2025 meeting where the motion to place the Annexation Agreement and Annexation Ordinance on file was approved, that motion should have been deferred to a time when all Commissioners could have been present. This Court finds that after rejecting the unsupported conclusions of fact and legal conclusions contained in Count II, the allegations of Count II, when construed in the light most favorable to the plaintiff, are insufficient to state a cause of action upon which relief can be granted as, per the allegations of the Complaint, a quorum was present for the meeting and they were able to conduct public business. Additionally, all five Commissioners were present and voted at the November 5, 2025 open public meeting.

Count III makes allegations that the period of time between the meeting where the Annexation Agreement and Annexation Ordinance were voted on to be paced on file and the date and time of the scheduling of the public hearing was an insufficient amount of time to review the Annexation Agreement and Annexation Ordinance however, the Complaint admits that the notice requirements were in compliance with the Illinois Municipal Code, specifically, 65 ILCS 5/11-15.1-3. Additionally, the Court is allowed to make reasonable inferences from facts alleged and believes that a reasonable inference is that the meeting was started at 4:00 p.m. as opposed to the “normal” 6:00 p.m. starting time to provide more time for public hearing on what could have possibly been a volatile issue in the community. Therefore, once the unsupported conclusions of fact and legal conclusions are removed from Count III, Count III also fails to state a cause of action even when construed in the light most favorable to the Plaintiff as the notice requirements are found to be in compliance with the Illinois Municipal Code and the public was given twenty-one days to review the documents. As such, Count III is dismissed with prejudice.

Count IV of the Complaint requests that the Court declare null and void the public vote conducted on November 5, 2025. As this Court has found the pleadings have presented no material issue of fact that the OMA was violated, Count IV is also dismissed with prejudice.

Count V of the Complaint alleges Ultra Vires Acts and Unlawful Use of Public Funds in Advance of Annexation Authority. In support of his argument, Plaintiff cites the cases of *People ex rel. Rago v. Lipsky*, 327 Ill App 63 and *People ex rel. Benza v. Morrison* (improperly cited at) 395 Ill 228. The Court has reviewed these cases and does not find that either case stands for the propositions alleged in the complaint. The *Lipsky* case is a case about a married woman changing her name and registering to vote which the court can find has no bearing on the issues at hand. In addition, the *Benza* case is mis-cited and is actually found at 4 Ill 2d 542 and is a 1954 case. That case deals with tax levies and this Court finds no applicability to the matter at hand. Additionally, Count V is also filled with legal conclusions and once those legal conclusions are discarded, Count V contains no material issues of fact. Count V is dismissed with prejudice.

Count VI of the Complaint alleges a Predetermination and Denial of Meaningful Public Hearing. Again, this Count is full of unsupported conclusions of fact and legal conclusions and once those legal conclusions are discarded, Count VI contains no material issues of fact, therefore, once the

unsupported conclusions of fact and legal conclusions are removed from Count VI, Count VI also fails to state a cause of action when construed in the light most favorable to the Plaintiff. Plaintiff cites *E & E Hauling, Inc v. The Pollution Control Board et al.*, 107 Ill 2d 33 for the proposition that a hearing after a decision has effectively been made is a due process violation. Again, this is not a statement this case utters. To the contrary the *E & E* case says that:

County boards and other governmental agencies routinely make decisions that affect their revenues. They are public service bodies that must be deemed to have made decisions for the welfare of their governmental units and their constituents. Their members are subject to public disapproval; elected members can be turned out of office and appointed members replaced. Public officials should be considered to act without bias.

Id at 42.

From the pleading presented, the vote was four to one in favor of the Annexation Agreement and Annexation Ordinance. Count VI is dismissed with prejudice.

As the Court has dismissed the entirety of the Complaint with prejudice, there is no just reason for delaying either the enforcement or appeal or both of this Order pursuant to Illinois Supreme Court Rule 304(a).

The March 6, 2026 court date is stricken. So Ordered.

ENTER: March 5, 2026

  
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Judge Todd L. Martin