

Transparency groups see problems in mosque ruling

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NASHVILLE, Tenn. (AP) — A court ruling that sets higher standards for a central component of the Tennessee's open meetings law hasn't drawn loud cheers from government transparency advocates.

In part that's because the legal effort to stop construction of a mosque in Rutherford County is widely seen as being driven by fear of Muslims. But some good government groups also think the county government didn't do anything wrong.

Rutherford County Chancellor Robert Corlew ruled May 29 that county officials violated the state's Sunshine Law by not providing adequate public notice of the meeting where the Islamic Center of Murfreesboro's new building was approved.

Corlew's order does not require greater notice for all meetings in Rutherford County or even all meetings of the Planning Commission but specifically refers to meetings that involve either the Islamic Center or "further matters of significant public interest."

Rick Hollow, a Knoxville attorney who consulted on the state's Sunshine Law when it was written in 1974, said any time citizens challenge the government over open meetings and win it is a positive. He said the ruling enforces the idea that the Sunshine Law "should be obeyed and has some teeth."

But he disagreed with the idea that notice for the Planning Commission meeting could be considered inadequate because the controversy surrounding the mosque construction made that agenda item especially important.

"For anyone to say you are going to tie adequate public notice to the topic being debated, I think that's wrong," he said. "Either you give adequate public notice or you don't."

Mosque opponents hoping to stop construction had raised numerous claims in court, including that Islam was not a legitimate religion deserving First Amendment protection and that mosque members were part of a secret plot to overthrow the U.S. Constitution.

The judge dismissed those claims and ruled only on the question of public meeting notice, but the anti-Muslim aspects of the case remain associated with it in many people's minds.

"My perspective on it, it was not an open meetings issue," said Kent Flanagan, director of the nonprofit Tennessee Coalition for Open Government, a nonprofit advocacy group which counts The Associated Press and other news organizations among its members. "If a Christian church has asked to build a new building for their congregation and put out similar notice, no one would have thought anything of it."

Flanagan said the ruling will stir up discussion about what is considered adequate public notice, something Tennessee code does not define, but he thinks the ruling is too narrow to have much of an impact on improving public notice of meetings in general.

Jim Zachary, director of the Tennessee Transparency Project and editor of two East Tennessee newspapers, said he hasn't written much about the case, which he thinks is championing government transparency for the wrong reasons.

"It's not a landmark case," he said. "It's way too vague to give us definitive marching orders on open meetings. And it's a shame, in some ways, that it has surrounded the building of a mosque."

Frank Gibson, the public policy director of the Tennessee Press Association, considers the judge's decision "good news for open government advocates" but said he doesn't feel it is a case the association needs to take a stand on.

"I think the reason people are not more up in arms over it is this wasn't done in a secret meeting," he said.

Gibson said a sign announcing the future site of the Islamic Center of Murfreesboro had been on the property for months before the meeting. At one point it was defaced and a photograph ran in the Daily News Journal. A story about the plans for a new mosque also ran in that newspaper. That was in addition to the county's paid notice in the Murfreesboro Post, which the judge found to be inadequate.

"I take the position that anybody had ample time to inquire about the legal status of the project and what was going to be done," Gibson said.

Steve Schroeder, of the Rutherford Neighborhood Alliance, agreed, saying his group would probably be among the first to complain if they felt county officials were trying to get away with something.

The group filed an ethics complaint a few years ago when officials met secretly to negotiate a contract. But in the case of the mosque approval, Schroeder said there was nothing out of the ordinary.

"I believe I can say the membership feels we are in support of the construction and religious freedom," he said. "We feel that local Muslims have been sorely tried."