STATE OF MICHIGAN

COURT OF APPEALS

PAUL J. SMOKE, Plaintiff-Appellee/Cross-Appellant,	UNPUBLISHED April 20, 2017
v CHARTER TOWNSHIP OF RAISIN and CHARTER TOWNSHIP OF RAISIN BOARD OF TRUSTEES, Defendants-Appellants/Cross-Appellees.	No. 332434 Lenawee Circuit Court LC No. 14-005044-CZ

Before: FORT HOOD, P.J., and JANSEN and HOEKSTRA, JJ.

PER CURIAM.

In this action alleging violations of the Freedom of Information Act (FOIA), MCL 15.231 *et seq.*, and the Open Meetings Act (OMA), MCL 15.261 *et seq.*, defendants appeal as of right, and plaintiff cross-appeals as of right, the trial court's order granting in part and denying in part the parties' motions for summary disposition pursuant to MCR 2.116(C)(10). We affirm and remand for a determination of plaintiff's fees and costs with regard to his FOIA claim.

I. FACTS

This case arises from a March 17, 2014 special board meeting of defendant Charter Township of Raisin Board of Trustees (the Board), in which the Board voted to purchase a new fire truck. It is undisputed that the March 17, 2014 meeting was improperly noticed under the OMA. Following the Board's decision to purchase the fire truck, plaintiff submitted a FOIA request to defendant Charter Township of Raisin (the Township) on March 24, 2014, and submitted another request on March 26, 2014. After plaintiff received responses from the Township with regard to his FOIA requests, plaintiff filed the complaint in this case. Plaintiff alleged that the Township's response to his initial FOIA request was inadequate and that the Township's response to his second FOIA request was inadequate and untimely. Additionally, plaintiff alleged that defendants violated the notice requirements of the OMA with regard to the March 17, 2014 special meeting. With regard to his OMA claim, plaintiff requested that the court award him costs and attorney fees, and enjoin defendants from further noncompliance with the OMA. With regard to his FOIA claim, plaintiff requested that the court enter an order

requiring the Township to disclose all the public records it withheld from plaintiff, enjoining the Township from further noncompliance with FOIA, and granting plaintiff costs and attorney fees.

The Board held a meeting on May 5, 2014, in which the Board again voted to approve the purchase of the new fire truck. The parties do not dispute that this meeting was properly noticed. While the case was pending, defendants provided plaintiff with additional documents responsive to his FOIA requests. The additional documents included documents regarding the military surplus program and handwritten notes from the March 17, 2014 meeting.

The parties filed competing summary disposition motions. In his motion, plaintiff argued that defendants plainly violated FOIA by failing to initially provide the later produced documents, that he prevailed in his lawsuit by causing defendants to release those documents, and that he was entitled to attorney fees and court costs. With respect to the OMA, plaintiff argued that defendants violated OMA notice requirements for two meetings, held on March 7, 2014 and March 17, 2014, those violations revealed a pattern of willful OMA violations, and therefore, plaintiff was entitled to injunctive relief, attorney fees, and court costs.

In their motion, defendants argued that their search for documents in their initial response to plaintiff's FOIA requests was reasonable and made in good faith. Further, defendants argued that they only turned over the newly discovered documents because the documents were found in a place where they were not reasonably likely to be found. Therefore, defendants asserted that plaintiff's lawsuit had no causal nexus to the production of those documents, and as such, plaintiff should not be awarded attorney fees or court costs pursuant to FOIA. Regarding the alleged OMA violations, defendants admitted to a technical violation of the OMA notice requirement for the March 17, 2014 special meeting, but argued that one technical violation was not sufficient to award injunctive relief to plaintiff. Therefore, plaintiff was not entitled to attorney fees and court costs pursuant to the OMA.

The trial court heard the parties' arguments and entered an order granting each motion in part and denying each motion in part. The trial court found that defendants violated FOIA, plaintiff prevailed in his action by leading to the disclosure of the responsive documents, and plaintiff was entitled to an award of attorney fees under FOIA, to be determined at a later evidentiary hearing. The trial court also determined that defendants violated the OMA with respect to the March 17, 2014 meeting, but that plaintiff was not entitled to an award of injunctive relief, attorney fees, or court costs under the OMA. The trial court's reasoning for denying injunctive relief under the OMA was that defendants were required to abide by the OMA with or without an order requiring them to do so.

II. FOIA

Defendants argue that the trial court erred by denying their motion for summary disposition of plaintiff's FOIA claim and that plaintiff was not entitled to fees or costs because he did not prevail in the action. We disagree.

We review a trial court's decision on a motion for summary disposition de novo. *Kincaid v City of Flint*, 311 Mich App 76, 81; 874 NW2d 193 (2015). A motion for summary disposition pursuant to MCR 2.116(C)(10) "tests the factual sufficiency of the complaint." *Joseph v Auto*

Club Ins Ass'n, 491 Mich 200, 206; 815 NW2d 412 (2012). "[T]he circuit court must consider the affidavits, pleadings, depositions, admissions, and other evidence submitted by the parties, MCR 2.116(G)(5), in the light most favorable to the party opposing the motion." *Id*. "If the proffered evidence fails to establish a genuine issue regarding any material fact, the moving party is entitled to judgment as a matter of law." *Id*. "A reviewing court may not employ a standard citing the mere possibility that the claim might be supported by evidence produced at trial. A mere promise is insufficient under our court rules." *Bennett v Detroit Police Chief*, 274 Mich App 307, 317; 732 NW2d 164 (2006). "While it is true that the trial court must 'consider[] affidavits, pleadings, depositions, admissions, and other evidence submitted by the parties,' the nonmoving party may not rely on mere allegations or denials, but must set forth specific facts that show that a genuine issue of material fact exists." *Id*. at 318 (citation omitted; alteration in original).

To the extent this Court is asked to interpret FOIA, "[s]tatutory interpretation is an issue of law that is reviewed de novo." *Cruz v State Farm Mut Auto Ins Co*, 466 Mich 588, 594; 648 NW2d 591 (2002). When considering "discretionary determinations in FOIA cases" the proper standard of review is for an abuse of discretion. *Herald Co, Inc v Eastern Mich Univ Bd of Regents*, 475 Mich 463, 467; 719 NW2d 19 (2006). As such, this Court cannot "disturb the trial court's decision unless it falls outside the principled range of outcomes." *Id*. at 472.

FOIA recognizes that "[t]he people shall be informed so that they may fully participate in the democratic process." MCL 15.231(2). "The Legislature codified the FOIA to facilitate disclosure to the public of public records held by public bodies." *Herald Co*, 475 Mich at 472. "However, by expressly codifying exemptions to the FOIA, the Legislature shielded some 'affairs of government' from public view." *Id*. In other words, "a public body is required to grant full disclosure of its records, unless they are specifically exempt under MCL 15.243." *Detroit Free Press, Inc v Southfield*, 269 Mich App 275, 281; 713 NW2d 28 (2005).

FOIA sets out a timeline for when a governmental body must respond to a request under the act:

> Unless otherwise agreed to in writing by the person making the request, a public body shall respond to a request for a public record within 5 business days after the public body receives the request by doing 1 of the following:
>
> (a) Granting the request.
>
> (b) Issuing a written notice to the requesting person denying the request.
>
> (c) Granting the request in part and issuing a written notice to the requesting person denying the request in part.
>
> (d) Issuing a notice extending for not more than 10 business days the period during which the public body shall respond to the request. A public body shall not issue more than 1 notice of extension for a particular request. [MCL 15.235(2).]

This Court recently summarized a public body's options in responding to a FOIA request, stating that

> a public body must respond to a request for a public record within five business days. MCL 15.235(2). The public body's response must grant, deny, or grant in part and deny in part the request; the public body may also extend the response period for up to 10 business days. [*King v Mich State Police Dep't*, 303 Mich App 162, 188; 841 NW2d 914 (2013).]

However, this Court recently clarified that "MCL 15.235(2) does not mandate that a FOIA recipient, upon granting a FOIA request, deliver the requested documents within the time period specified for responding to the FOIA request." *Cramer v Village of Oakley*, 316 Mich App 60, ___; ___ NW2d ___ (2016) (Docket No. 330736); slip op at 3. Stated differently, "the Legislature did not intend the word 'grant' in MCL 15.235 to be synonymous with 'fulfill.' " *Id.* at ___; slip op at 4. Therefore, the public body has five business days, pursuant to MCL 15.235(a), to "grant" a FOIA request, but then is given additional time to "fulfill" that request. *Id.* at ___; slip op at 4-5. This Court noted, "However, our holding does not afford a public body *carte blanche* not to produce responsive documents." *Id.* at ___; slip op at 5. Instead, "nothing precludes a plaintiff, if faced with an inordinate delay in the production of requested documents, from filing suit on the ground that a public body's actions in response to a FOIA request effectively constitute a denial." *Id.* at ___; slip op at 5.

Before reaching the issue whether defendants' responses were in violation of FOIA, to the extent the remedy for such a violation would be disclosure, we find this issue to be moot. "As a general rule, an appellate court will not decide moot issues." *B P 7 v Bureau of State Lottery*, 231 Mich App 356, 359; 586 NW2d 117 (1998). This court will typically decline to consider issues where "subsequent events have rendered it impossible for us to grant any relief in the matter." *Nat'l Wildlife Federation v Dep't of Environmental Quality (No 1)*, 306 Mich App 336, 364; 856 NW2d 252 (2014). In FOIA cases, "release of the requested public record by the public body would render the FOIA appeal moot because there would no longer be a controversy requiring judicial resolution." *State News v Mich State Univ*, 481 Mich 692, 704 n 25; 753 NW2d 20 (2008). In other words, where a public body subsequently produces all of the requested documents, the trial court should dismiss the plaintiff's substantive claim as moot. *Cramer*, ___ Mich App at ___; slip op at 5 n 7.

The record before this Court reveals that the parties disagree regarding whether defendants' responses to plaintiff's FOIA requests were in violation of FOIA to any extent. Defendants argue that the trial court improperly determined that there were FOIA violations because their response was timely, made in good faith, and fulfilled plaintiff's request to the best of defendants' ability. Plaintiff argues that the trial court properly determined that defendants violated FOIA because their responses were untimely and failed to initially provide all the responsive documents. However, plaintiff does not contend that there are responsive documents maintained by defendants that have not been provided to plaintiff. Instead, as discussed, the parties disagree regarding whether the response was timely and complete. Therefore, the fact that plaintiff has now received all of the documents responsive to his two FOIA requests, regardless of whether defendants' initial response was proper pursuant to FOIA, renders the substantive issue of a FOIA violation moot. See *id.*; see also *State News*, 481 Mich at 704 n 25.

While the issue whether defendants' FOIA responses were in violation of FOIA is a moot issue to the extent that the remedy for such a violation would be disclosure, the aforementioned law regarding FOIA responses is still relevant to the issue of attorney fees and court costs. "The mere fact that plaintiff's substantive claim under the FOIA was rendered moot by disclosure of the records after plaintiff commenced the circuit court action is not determinative of plaintiff's entitlement to fees and costs under MCL 15.240(6)." *Thomas v New Baltimore*, 254 Mich App 196, 202; 657 NW2d 530 (2002). Indeed, "MCL 15.240(6) allows a plaintiff to recover 'reasonable attorneys' fees, costs, and disbursements' in the event 'a person asserting the right to . . . receive a copy of all or a portion of a public record prevails' in a FOIA action." *Amberg v Dearborn*, 497 Mich 28, 33-34; 859 NW2d 674 (2014) (citation omitted). Specifically, "[i]f the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements." MCL 15.240(6). "To 'prevail' in a FOIA action within the meaning of MCL 15.240(6), a court must conclude that 'the action was reasonably necessary to compel the disclosure [of public records], and [that] the action had a substantial causative effect on the delivery of the information to the plaintiff.' " *Amberg*, 497 Mich at 34 (alterations in original), quoting *Scharret v Berkley*, 249 Mich App 405, 414; 642 NW2d 685 (2002).

Plaintiff made two separate FOIA requests: one on March 24, 2014, and the next on March 26, 2014. Plaintiff received a response to his March 24, 2014 request on April 10, 2014, and a response to his March 26, 2014 request on April 21, 2014. The April 21, 2014 response indicated that there were some meeting agendas that had been inadvertently disposed of, and that defendants would provide those documents if discovered. Besides this statement, the responses provided no indication that defendants were still working toward full compliance with the FOIA requests. Instead, the responses indicated that they were final. Indeed, the April 21, 2014 response even informed plaintiff of his appeal rights.

Plaintiff filed the instant suit on April 29, 2014. During discovery, plaintiff deposed the township clerk on July 30, 2014. During that deposition, the clerk testified that she initially took handwritten notes during meetings, but that the FOIA responses had not included any handwritten notes. An e-mail from plaintiff to defendants on August 1, 2014, contained a request that those handwritten notes be turned over. It is undisputed that plaintiff was later provided the clerk's handwritten notes for the March 17, 2014 special meeting at a September 8, 2014 status conference. Then, on May 14, 2015, after more than one year had passed since plaintiff's FOIA request and the filing of the instant litigation, defendants provided plaintiff with 672 additional pages of responsive documents. Defendants contend that they only discovered the handwritten notes and other documents by using search terms and looking in places where responsive documents were not reasonably likely to be found.

Defendants' argument on appeal relies heavily on the reasoning provided in *Cramer*, ___ Mich App at ___; slip op at 6-7, in that defendants believe that just as the *Cramer* decision determined that a public body had a reasonable time to fulfill a FOIA request, so should public bodies be allowed to only provide the documents that they can reasonably find. A closer look at the *Cramer* decision and the FOIA statutory scheme, however, reveals that defendants' argument is without merit.

In *Cramer*, ___ Mich App at ___; slip op at 1, "[the] plaintiff sent [the] defendant six separate FOIA requests" on May 15, 2015. Then, on May 20, 2015, the defendant issued six letters responding to the plaintiff's FOIA requests, with each letter stating that the request had been granted, but that the defendant would need additional time to locate the responsive documents and fulfill the requests. *Id*. at ___; slip op at 1. The plaintiff responded by letter that same day, acknowledging receipt of the letters granting the FOIA requests but indicating that "simply providing a written statement 'granting the requests' was not sufficient to comply with the FOIA" because the defendant was also required "to produce the requested documents." *Id*. at ___; slip op at 1. The plaintiff stated that she would take further legal action if the documents were not provided by May 22, 2015. *Id*. at ___; slip op at 1. On May 28, 2015, the plaintiff filed suit claiming violations of FOIA. *Id*. at ___; slip op at 1-2. The plaintiff's complaint requested relief in the form of an order requiring immediate disclosure of the responsive documents as well as an order for the defendant to pay the plaintiff's attorney fees and court costs. *Id*. at ___; slip op at 2. As the lawsuit progressed, the plaintiff acknowledged that she had received responsive documents from the defendant by early June 2015. *Id*. at ___; slip op at 2. Despite that admission, "[t]he trial court concluded that [the] defendant's May 20, 2015 responses did not comply with MCL 15.235(2) because the requested documents were not themselves produced within the statutory time frame for a response . . . ." *Id*. at ___; slip op at 2. The trial court "also concluded that [the] plaintiff was entitled to an award of attorney fees [and] costs[.]" *Id*. at ___; slip op at 2.

This Court considered the facts and determined that MCL 15.235(2) did not require a public body to fulfill a request in five business days, but only to grant a request within five business days. *Id*. at ___; slip op at 3-4. Given that reasoning, this Court held that the trial court improperly granted summary disposition in favor of the plaintiff because the defendant had not violated FOIA with respect to the disclosure. *Id*. at ___; slip op at 5. This Court then considered the trial court's order awarding attorney fees and court costs to the plaintiff. *Id*. at ___; slip op at 6. This Court provided the following reasoning for reversing the trial court's order in that regard:

> In this case, there is no evidence in the record, apart from the mere fact that the requested documents were produced after suit was filed, to support the contention that the filing of this action was necessary or had a substantial causative effect on [the] defendant's production of the requested documents. To the contrary, [an] uncontested affidavit shows that [the] defendant had the intent to fully grant the request and provide the requested documents once it had time to sort through its records—which it accomplished within 10 days of submitting its responses (and less than a week after the complaint was filed). Thus, the record indicates that [the] defendant intended in good faith to fulfill [the] plaintiff's requests, produced the requested documents promptly, and took no actions that could be seen as an attempt to withhold any documents from disclosure. Yet, [the] plaintiff filed suit immediately after the time period provided in MCL 15.235(2) for a response had lapsed. Nothing other than the mere fact that [the] plaintiff's filing of suit occurred before the delivery of the documents supports [the] plaintiff's argument that one was necessary to compel the other. Under these circumstances, we conclude that the trial court in this action abused its

> discretion in awarding [the] plaintiff attorney fees, costs, and disbursements. [*Id*. at ___; slip op at 6-7 (citations omitted).]

On those grounds, this Court reversed the trial court's decision granting summary disposition in favor of the plaintiff with respect to both the finding of a FOIA violation and the grant of attorney fees and court costs. *Id*. at ___; slip op at 7.

Defendants urge this Court to decide similarly. However, there are distinguishable facts between this case and *Cramer* that render the *Cramer* decision inapplicable to the present case. The defendant in *Cramer* responded initially by granting the FOIA requests and indicating that it would need additional time to fulfill the requests. *Id*. at ___; slip op at 1. Additionally, there was no allegation in *Cramer* that the defendant produced some documents in its initial response, and then produced additional documents located later. Rather, the *Cramer* defendant provided all responsive documents in its initial FOIA response. *Id*. at ___; slip op at 2. The only alleged error attributed to the defendant in *Cramer* was that its original letter stating that the plaintiff's FOIA requests were granted did not also contain all of the responsive documents. *Id*. at ___; slip op at 1-2. When the defendant in *Cramer* finally fulfilled the FOIA requests, there was no allegation that the response was incomplete. *Id*. at ___; slip op at 2.

The contrary is true in the present case. The record is undisputedly clear that defendants' initial attempts to fulfill each of plaintiff's FOIA requests were incomplete because the responses did not include the handwritten notes from the March 17, 2014 meeting or the 672 documents regarding the military surplus program. Even more importantly, there is no indication on the record that, absent the instant lawsuit, defendants would have continued to search for, and eventually discover, those documents. Furthermore, this Court's decision in *Cramer* was reliant on the plain language of MCL 15.235(2), which required only a response granting a FOIA a request, rather than a response fulfilling a FOIA request, within five business days of receiving the request. *Id*. at ___; slip op at 3-4. Because FOIA lacked any specific time limit within which a public body is required to fulfill a FOIA request, this Court adopted the approach that so long as the public body's response is reasonable, it would not be a FOIA violation. *Id*. at ___; slip op at 3-4. In the instant case, however, there is no such statute to support defendants' claims that they should be permitted to only provide documents responsive to a FOIA request that they are reasonably able to find. Indeed, FOIA is quite explicit in regard to what documents must be disclosed in response to a FOIA request: "a public body is required to grant full disclosure of its records, unless they are specifically exempt under MCL 15.243." *Detroit Free Press*, 269 Mich App at 281. Defendants do not cite any exception under FOIA permitting a response of only those documents that were reasonably discoverable. Therefore, defendants' failure to fully comply with plaintiff's FOIA requests in their initial responses was a FOIA violation. See *id*.; *Cramer*, ___ Mich App at ___; slip op at 6-7.

In addition, we conclude that plaintiff prevailed with regard to his FOIA claim. As discussed, the record is devoid of any evidence that, absent plaintiff's lawsuit, defendants would have continued to scour their records and produce the missing documents. Instead, the clerk's handwritten notes and the additional responsive documents were produced solely because of plaintiff's lawsuit. Stated differently, with respect to both sets of documents provided to plaintiff after he filed suit, plaintiff's lawsuit was the "causative effect" that was " 'reasonably necessary to compel disclosure.' " *Id*. (citation omitted). Therefore, the trial court properly determined

that plaintiff prevailed in his FOIA action and that he was consequently entitled to attorney fees and court costs pursuant to MCL 15.240(6). Accordingly, we remand this case to the trial court for a determination of plaintiff's fees and costs.

III. OMA

Plaintiff argues on cross-appeal that the trial court abused its discretion by determining that he was not entitled to injunctive relief under the OMA. We disagree.

To the extent this Court is asked to interpret the OMA, "[s]tatutory interpretation is an issue of law that is reviewed de novo." *Cruz*, 466 Mich at 594. " 'We review for an abuse of discretion a trial court's decision[] whether to . . . grant or deny injunctive relief' " pursuant to the OMA. *Citizens for a Better Algonac Community Sch v Algonac Community Sch*, ___ Mich App ___, ___; ___ NW2d ___ (2016) (Docket No. 326583); slip op at 2 (citation omitted). "An abuse of discretion occurs when the trial court chooses an outcome falling outside the range of principled outcomes." *Edry v Adelman*, 486 Mich 634, 639; 786 NW2d 567 (2010).

The purpose of the OMA is to "promote a new era in governmental accountability." *Booth Newspapers, Inc v Univ of Mich Bd of Regents*, 444 Mich 211, 222; 507 NW2d 422 (1993). "To further the OMA's legislative purposes, the Court of Appeals has historically interpreted the statute broadly, while strictly construing its exemptions and imposing on public bodies the burden of proving that an exemption exists." *Id*. at 223. "The Open Meetings Act allows individuals to bring civil actions for injunctive relief to either compel compliance or enjoin further noncompliance." *Davis v Detroit Fin Review Team*, 296 Mich App 568, 576-577; 821 NW2d 896 (2012).

Pursuant to the OMA, "[a]ll meetings of a public body shall be open to the public and shall be held in a place available to the general public." MCL 15.263(1). "A meeting of a public body shall not be held unless public notice is given as provided in this section by a person designated by the public body." MCL 15.265(1). The OMA established the type of public notice required for special meetings of public bodies:

> [F]or . . . a special meeting of a public body, a public notice stating the date, time, and place of the meeting shall be posted at least 18 hours before the meeting in a prominent and conspicuous place at both the public body's principal office and, if the public body directly or indirectly maintains an official internet presence that includes monthly or more frequent updates of public meeting agendas or minutes, on a portion of the website that is fully accessible to the public. The public notice on the website shall be included on either the homepage or on a separate webpage dedicated to public notices for nonregularly scheduled public meetings and accessible via a prominent and conspicuous link on the website's homepage that clearly describes its purpose for public notification of those nonregularly scheduled public meetings. [MCL 15.265(4).]

The OMA provides for the ability of a person to "commence a civil action to compel compliance or to enjoin further noncompliance with" the OMA. MCL 15.271(1). Stated differently, "[i]f a public body has failed to comply with the requirements of the act, in addition to authorizing

enforcement actions by the attorney general or local prosecuting attorney, the OMA also allows for any person to commence a civil action." *Speicher v Columbia Twp Bd of Trustees*, 497 Mich 125, 135; 860 NW2d 51 (2014).

"If a public body is not complying with [the OMA], and a person commences a civil action against the public body for injunctive relief to compel compliance or to enjoin further noncompliance with [the OMA] and succeeds in obtaining relief in the action, the person shall recover court costs and actual attorney fees for the action." MCL 15.271(4). "[C]ourt costs and actual attorney fees under MCL 15.271 may only be awarded when a plaintiff *seeks and obtains* injunctive relief." *Speicher*, 497 Mich at 134. "[I]njunctive relief is an extraordinary remedy that issues only when justice requires, there is no adequate remedy at law, and there exists a real and imminent danger of irreparable injury." *Davis*, 296 Mich App at 613-614 (citation and quotation marks omitted). " '[M]erely because a violation of the OMA has occurred does not automatically mean that an injunction must issue restraining the public body from using the violative procedure in the future.' " *Id*. at 622 (citation omitted). With respect to the process for obtaining injunctive relief pursuant to the OMA, "the Supreme Court specifically stated that MCL 15.271(1) 'contemplates an ongoing violation[.]' " *Citizens for a Better Algonac Community Sch*, ___ Mich App at ___; slip op at 5 (alteration in original), quoting *Speicher*, 497 Mich at 138. Stated differently, injunctive relief pursuant to MCL 15.271 would be appropriate "if there has been a pattern, within a relevant timeframe, reflecting that a public body has been regularly engaging in activity that violates the OMA." *Citizens for a Better Algonac Community Sch*, ___ Mich App at ___; slip op at 5.

The parties agree that defendants violated the notice requirements for special meetings codified in the OMA during the March 17, 2014 special meeting. The notice error for that meeting was undisputedly cured at the May 5, 2014 meeting. The parties disagree about the March 7, 2014 meeting. Plaintiff cites record evidence that the township supervisor believed the meeting held on March 7, 2014 violated the OMA in the same way as the March 17, 2014 meeting. Defendants, to the contrary, allege that the township supervisor's deposition testimony clearly revealed that he had no concerns regarding an OMA violation during the March 7, 2014 meeting. For the reasons discussed, this factual disagreement is ultimately irrelevant.

We begin by noting that the trial court's reasoning behind its refusal to grant plaintiff's request for injunctive relief was improper. The trial court relied solely on the fact that defendants were required to follow the OMA regardless of an order requiring them to follow the OMA. If that were a proper reason for denying injunctive relief pursuant to the OMA, the statute allowing a private citizen to seek injunctive relief would be rendered meaningless. After all, if that reasoning were permitted, there would be no instance where injunctive relief was possible under the OMA because public bodies are always required to follow the OMA. Therefore, because an individual can "commence a civil action to compel compliance or to enjoin further noncompliance with" the OMA, MCL 15.271(1), the trial court was not permitted to deny that relief merely because defendants were already required to follow the OMA.

Nevertheless, the trial court reached the right result for the wrong reason. "[T]his Court will affirm when the trial court reaches the right result for the wrong reason." *Demski v Petlick*, 309 Mich App 404, 441; 873 NW2d 596 (2015). While the aforementioned evidence might be enough to hold that there was a question of fact regarding whether there was a violation of the

OMA notice requirements during the March 7, 2014 meeting, the only issue presented on appeal is whether the trial court abused its discretion by refusing to grant injunctive relief under the OMA. Under the OMA, injunctive relief is only permitted where "there has been a pattern, within a relevant timeframe, reflecting that a public body has been regularly engaging in activity that violates the OMA." *Citizens for a Better Algonac Community Sch*, ___ Mich App at ___; slip op at 5. Further, there must be a real and imminent danger of irreparable injury. *Davis*, 296 Mich App at 613-614. Even if there was an error with the notice for the March 7, 2014 meeting, plaintiff failed to establish "a pattern" of OMA violations. Indeed, the Board held several additional meetings during this time frame, including on March 3, 2014, March 12, 2014, March 28, 2014, April 7, 2014, April 14, 2014, and May 5, 2014. There is no allegation of any OMA violation with regard to these meetings. Defendants only admit to an error with the March 17, 2014 meeting. For that error, defendants held another meeting on May 5, 2014, with proper notice, in order to cure the error that took place at the March 17, 2014 meeting. In his complaint, plaintiff only alleges error with that meeting as well. In addition, plaintiff does not explain what harm occurred arising out of the allegedly improperly noticed March 7, 2014 meeting. From that evidence, plaintiff failed to establish a pattern of OMA violations by defendants. Because there was no evidence of an ongoing violation or a pattern of activity in violation of the OMA, we affirm the trial court's decision. See *Demski*, 309 Mich App at 441.

Affirmed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Karen M. Fort Hood
/s/ Kathleen Jansen
/s/ Joel P. Hoekstra