

**COURT OF APPEALS
DECISION
DATED AND FILED**

November 11, 2004

Cornelia G. Clark
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 03-3044

Cir. Ct. No. 03CV000136

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

**LOUIS J. FERRIS, INDIVIDUALLY, AND AS COMMANDER
OF VFW POST 1530 AND WILLIAM TAUSCHER,
INDIVIDUALLY, AND AS COMMANDER OF AMERICAN
LEGION POST 52,**

PLAINTIFFS-APPELLANTS,

v.

**EX-CHANCELLOR JUDITH L. KUIPERS, UWL,
CHANCELLOR DOUGLAS N. HASTAD, UWL, AND
UNIVERSITY OF WISCONSIN BOARD OF REGENTS,**

DEFENDANTS-RESPONDENTS.

APPEAL from an order of the circuit court for La Crosse County:
JOHN A. DAMON, Judge. *Affirmed.*

Before Deininger, P.J., Vergeront and Higginbotham, JJ.

¶1 PER CURIAM. Louis Ferris and William Tauscher appeal the circuit court’s order dismissing this case. The issue is whether the circuit court properly granted summary judgment in favor of Chancellor Douglas Hastad, University of Wisconsin-La Crosse, Ex-Chancellor Judith Kuipers, University of Wisconsin-La Crosse, and the University of Wisconsin Board of Regents. We affirm.

¶2 While Kuipers was chancellor, she decided to change the name of Veterans’ Memorial Stadium to “Roger Haring Veterans’ Memorial Stadium.” The name was subsequently changed back to “Veterans’ Memorial Stadium,” but the field inside the stadium was renamed “Rodger Haring Field.” This decision was made by Hastad, who had become chancellor after Kuipers.

¶3 Ferris and Tauscher brought this action against Kuipers and Hastad, alleging that Kuipers and Hastad had violated the Wisconsin Open Meetings Law because they did not hold a public meeting before renaming the stadium and field. They also named the University of Wisconsin Board of Regents as a defendant, alleging that it had not taken official action with regard to the actions of Chancellors Kuipers and Hastad, despite requests that it do so and its statutory duty to do so. The circuit court granted summary judgment dismissing the complaint.

¶4 We review a decision granting summary judgment de novo, benefiting from the circuit court’s analysis. *Lambrecht v. Estate of Kaczmarczyk*, 2001 WI 25, ¶21, 241 Wis. 2d 804, 623 N.W.2d 751. First, we examine “the pleadings to determine whether a claim for relief is stated.” *Id.* “In testing the sufficiency of a complaint, we take all facts pleaded by plaintiffs and all inferences which can reasonably be derived from those facts as true.” *Green Spring Farms*

v. Kersten, 136 Wis. 2d 304, 317, 401 N.W.2d 816 (1987). “The complaint should be dismissed as legally insufficient only if it is quite clear that under no circumstances can plaintiffs recover.” *Id.*

¶5 The circuit court properly granted summary judgment dismissing the action because the complaint did not state a claim for relief. The Open Meetings Law provides that “[e]very meeting of a governmental body shall be preceded by public notice as provided in s. 19.84, and shall be held in open session.” WIS. STAT. § 19.83(1).¹ Kuipers and Hastad are individuals. Their actions as individuals are not the actions of a “governmental body.” The allegation in the complaint that they each did something that they were not authorized to do and should have done by consulting with others, even if true, does not create an Open Meetings violation.²

By the Court.—Order affirmed.

This opinion will not be published. WIS. STAT. RULE 809.23(1)(b)5.

¹ All references to the Wisconsin Statutes are to the 2001-02 version unless otherwise noted.

² The complaint requests relief based only on the Open Meetings Law. Our decision about the insufficiency of the complaint is dispositive. Therefore, we do not address the other issues raised by the appellants.

