

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN**

Index # E2026-2178

**Janet Mentnech, Bonnie Lewis, Wendy Zeidner,
Dawn Halstead, Leslie Hakans, and Mildred Jackson,**

VERIFIED PETITION

Petitioners,

-against-

**THE COUNTY OF SULLIVAN, JOSHUA POTOSEK,
sued in his official capacity, and the NEW YORK
STATE DEPARTMENT OF HEALTH,**

Respondents.

For an order and judgment pursuant to Article 78 of
The CPLR

PRELIMINARY STATEMENT

Petitioners — resident, relative of resident and current employees of the Sullivan County Adult Care Center, a/k/a/ Care Center at Sunset Lake in Liberty [hereinafter “the facility”] - hereby challenge the unlawful process employed by the County of Sullivan to permanently close the facility, a county-operated nursing home and long-term care facility located in Sullivan County, New York, and the respondents’ failure to follow the rules governing facility closure in the State of New York.

The facility is licensed to accommodate 146 persons. Now, weeks after the announcement of closure, it remains home to approximately 70 vulnerable elderly residents. These are among the most fragile and vulnerable members of the Sullivan County community. The facility also employs approximately 90 full and part-time workers who serve these residents with dedication and professionalism.

Respondents' closure decision flagrantly violated the New York Open Meetings Law ("OML"), *Public Officers Law* §§ 100–111; the New York Freedom of Information Law ("FOIL"), *Public Officers Law* §§ 84–90; the New York Public Health Law ("PHL"), §§ 2801-*d* and 2803-*c* and the state Worker Adjustment and Retraining Notification Act ("WARN Act"), *N.Y. Lab. Law* § 860 *et seq.* Moreover, the closure determination was arbitrary, capricious, an abuse of discretion, and made without rational basis, without adequate public deliberation, and without meaningful consideration of the welfare of the residents, the rights of employees, or feasible alternatives to closure.

County Respondents conducted critical deliberations and reached their closure determination behind closed doors, in an unauthorized Executive Session, and deliberately concealed the substance, timing, and finality of the closure decision from residents, families, employees, and the public at large for *FIVE* months. Further, respondent New York State Department of Health ("DOH") participated in the closure process in a secretive and undisclosed manner, and any determination or approval issued by DOH in connection with the proposed closure was similarly long withheld from Petitioners and the public.

On August 19, 2026, County Respondent issued a press release [Exhibit 1] that revealed the closure, confirming a process which respondents long concealed from the public, residents, and families. The issuance of this press release — rather than a properly noticed public hearing or legislative vote — epitomizes the contempt for transparency and lawful process characteristic of the entire closure process. This continued as the County respondent failed to follow central elements of the rules governing facility closure in our state and responses to Freedom of Information Act requests from members of the public.

Four members of the Sullivan County Legislature, including Legislators Scott and McPhillips, publicly opposed this closure and documented the procedural violations and harms to their constituents. Their statements are annexed hereto as Exhibit 2.

Petitioners seek an order: (a) staying the closure of the Facility pending full compliance with applicable law; (b) annulling the closure determination as arbitrary, capricious, and made in violation of lawful procedure; (c) directing disclosure of all DOH communications,

determinations, and approvals; (d) directing County Respondents to hold a properly noticed public hearing concerning the closure assuming it remains their intent; (e) directing County Respondents to prepare and publicly disclose a comprehensive resident relocation plan and to comply with material elements of the rules governing facility closure assuming it remains their intent; and (f) awarding petitioners incurred litigation costs, together with such other and further relief as the Court deems just and proper.

I. PARTIES

A. PETITIONERS

1. Petitioner Janet Mentnech is an adult individual residing in Sullivan County, New York, and is a current resident of the Facility. Petitioners bring this proceeding individually and on behalf of all similarly situated current residents.
2. Petitioner Bonnie Lewis is an adult who resides in Sullivan County, New York, and the sister of petitioner Mentnech. She brings this proceeding individually and on behalf of all similarly situated family members of current residents of the facility.
3. Petitioners Wendy Zeidner, Dawn Halstead, Leslie Hakans and Mildred Jackson are adult current full-time employees of the Facility who bring this proceeding individually and on behalf of all similarly situated current employees of the Facility. Each has worked at the facility for between 8 and 26 years.
4. Each petitioner has or shall suffer concrete and actual injury by and through the challenged action.
5. Petitioner Mentnech does not wish to be "relocated" as her family, including her mother, reside in Sullivan County and will be unable to visit her and maintain a close relationship were she to be relocated. Petitioner Lewis is a primary caregiver for her sister and would be severely inconvenienced, as would be many family members, by the forced relocation of petitioner Mentnech to another county. Petitioners Zeidner, Halstead, Hakans, and Jackson shall each lose their job if the respondent county is not restrained from such unlawful action.

B. RESPONDENTS

6. Respondent County of Sullivan is a municipal corporation duly organized and existing under the laws of the State of New York, with its principal offices located in Sullivan County, New York. The County owns and operates the Facility and is the entity that has purported to make the determination to close the Facility.

7. Respondent county acts through a county legislature (hereinafter the "Legislature") vested with exclusive authority over county fiscal and policy matters, including the operation of county-owned healthcare facilities. The Legislature is subject to the requirements of the New York Open Meetings Law, including *Public Officers Law* §§ 100–111. The legislature adopts resolutions or motions by majority votes and is required to so act with regard to all matters before it upon which it desires to take action, including the closure of the facility.

8. Respondent Joshua Potossek is sued in his/her official capacity as Sullivan County Manager. He participated in or directed the closure process and is responsible for its implementation.

9. Respondent New York State Department of Health (hereinafter "DOH") is a component of the executive branch of the State of New York, with offices at Corning Tower, Empire State Plaza, Albany, New York 12237. DOH has jurisdiction over nursing home licensure, certification, operations, and closure under *New York Public Health Law* §§ 2800 *et seq.* and participated in the closure process in a manner not publicly disclosed and issued or approved necessary determinations in connection with the proposed closure that were concealed from Petitioners and the public.

II. JURISDICTION AND VENUE

10. This Court has jurisdiction over this proceeding pursuant to *CPLR Article 78*, which authorizes judicial review of determinations made or actions taken by governmental bodies, agencies, and officials. The closure of the Facility, and the vote to do so, as discussed *infra.*, constitute final determinations and/or actions of a governmental body subject to review under *CPLR* § 7803.

11. This Court has subject matter jurisdiction pursuant to *N.Y. Const. Art. VI, § 7* and *CPLR § 7804*.

12. Venue is proper in Sullivan County pursuant to *CPLR § 506(b)*, which provides that a proceeding against a body or officer shall be commenced in the county where the respondent made the determination to be reviewed or where the proceeding was brought to be heard. The facility is located in Sullivan County; the governing body and county offices whose actions are challenged herein are located in Sullivan County; and the residents and employees affected by the challenged determination reside and work in Sullivan County.

13. This proceeding is timely commenced within the applicable statute of limitations period under *CPLR § 217*. The closure determination was publicly announced on or about August 19 2026, by way of press release; however, County Respondents' ongoing concealment of the finality of the determination and the DOH's involvement tolled the applicable limitations period under doctrines of equitable tolling and fraudulent concealment as petitioners did not know and had no way to know of the final agency action until the date of the press release. *See Matter of Biondo v. New York State Bd. of Parole*, 60 N.Y.2d 832 (1983).

III. STATEMENT OF FACTS

A. THE FACILITY AND ITS RESIDENTS

14. The facility is a county-owned and county-operated nursing home and long-term care facility located in Sullivan County, New York and provides skilled nursing, rehabilitative, and long-term residential care to the elderly and vulnerable citizens of Sullivan County for more than thirty years, having opened in 1990.

15. The facility currently houses approximately seventy residents, each of whom resides in the facility because s/he requires the level of skilled nursing care and supportive services that only a licensed nursing home can provide. The residents are among the most vulnerable individuals in Sullivan County, many of whom have no other familial or residential alternative.

16. Among its services, the facility operated a dedicated dementia and memory care unit, housing approximately sixteen individuals at time of the closure announcement diagnosed with

Alzheimer's disease, vascular dementia, Lewy body dementia, and other serious forms of cognitive impairment. These residents required specialized, structured care in a consistent and familiar environment. Their conditions rendered them uniquely and severely susceptible to harm from disruption, relocation, and changes in caregiving staff and routines.

17. The facility employs approximately 90 full and part-time workers, including registered nurses, licensed practical nurses, certified nursing assistants, social workers, dietary staff, maintenance personnel, and administrative employees. The majority of these employees are residents of Sullivan County or the surrounding region and have dedicated years, and in some cases decades, of service to the Facility and its residents.

B. THE CLOSURE DECISION: CONCEALMENT AND PROCEDURAL VIOLATIONS

18. Upon information and belief, without any public notice, County Respondents, acting through the Legislature and/or the County Manager, began deliberating the closure of the facility in or about late 2025, and reached a final determination to close the Facility in or about March 2026.

19. The deliberations leading to the closure determination were conducted in whole or in substantial part in closed and unauthorized Executive Sessions of the Legislature. Upon information and belief, these Executive Sessions were not properly noticed, nor properly authorized under any enumerated exception to the Open Meetings Law and they were not accompanied by adequate or lawful explanation of the purpose for which the public was excluded, as required by *Public Officers Law § 105*. See Exhibit 3 communication from New York State concerning subject matter and whether Executive Session was appropriate.

20. Upon information and belief, County Respondents failed to provide adequate notice of the specific subject matter of any executive sessions held regarding the Facility closure, including failing to state in reasonable detail why the matter was being considered in executive session, as required by *Public Officers Law § 105(1)*.

21. This failure to provide such notice deprived the public, the press, residents, families, employees, and individual legislators of the opportunity to challenge the executive session or to attend deliberations that were required by law to be open.

22. As confirmed by the legislature's clerk in response to a citizen's FOIL's request, minutes of executive sessions held concerning the facility closure were not prepared in a timely manner [or at all] nor made publicly available within the time periods prescribed by the Open Meetings Law, all in violation of *Public Officers Law § 106*. See Exhibit 4.

23. The legislature has never taken a public vote to close the facility.

24. Respondents aver that the members of the County Legislature voted to close the facility at and during an Executive Session in March 2026.

25. However, no such vote was then recorded, and no vote was taken in any public legislative session. See Exhibit 4.

26. Moreover, contrary to respondents' claims, only eight, not nine members, of the County Legislature attended the referenced Executive Session; four of those attending opposed closure, meaning that no majority existed even in Executive Session to support a motion to close the facility. See Exhibit 2.

27. Respondent county has never disclosed the motion to close the facility and any vote on it, such as it was, including the scope, timing, and finality of this action.

28. At no time prior to the August 19, 2026 press release did County Respondents convene a duly noticed public hearing at which residents, families, employees, advocates, legislators, and members of the public were afforded a meaningful opportunity to be heard on the closure decision or for the purpose of taking a public vote on any closure plan.

D. THE DOH'S CONCEALED ROLE AND DETERMINATION

29. Upon information and belief, the New York State Department of Health was involved in the closure process at various stages, including providing guidance, informal approval, or formal approval of the facility's closure. Upon information and belief, having received no evidence that

the respondent County had properly voted to close the facility and absent any motion or resolution approving the closure, the DOH approved the proposed closure.

30. Upon information and belief, the communications between County Respondents and DOH concerning the closure of the Facility were deliberately withheld from the public and from affected parties, in violation of FOIL, the Public Health Law, and applicable due process protections.

31. County residents have submitted or are in the process of submitting FOIL requests to both County Respondents and DOH seeking all communications, records, determinations, and approvals relating to the proposed closure of the Facility. Exhibit 5 illustrates the inquiries made.

32. The DOH correspondence and any determination or approval issued by DOH in connection with the Facility closure are annexed hereto as Exhibit 6.

33. To date, County Respondents and/or DOH have failed to provide timely, complete, or adequate responses to these requests, in further violation of law.

E. THE AUGUST 19 PRESS RELEASE AND ITS ADMISSIONS

34. On August 19, 2026, County Respondents issued a press release (the "August 19 Press Release") publicly announcing the closure of the Facility. The August 19 Press Release is annexed hereto as Exhibit 1.

35. The August 19 Press Release contains binding admissions by County Respondents regarding the closure determination. Specifically, the August 19 Press Release admitted, *inter alia*:

1. that the closure decision had been finally made and was not subject to further public deliberation or legislative vote;
2. that the closure is scheduled to occur on or before the end of this calendar year;
3. that DOH was involved in and/or had been consulted regarding the closure process;

36. The August 19 Press Release confirmed that the closure decision had been made without the benefit of a public hearing or vote in violation of the Open Meetings Law, and without disclosure of DOH's role — all of which had been deliberately concealed from Petitioners and the public.

On their face, these admissions contained that the closure determination was final and had been made outside of any lawful public

F. LEGISLATOR OPPOSITION

37. Legislators Scott and McPhillips of the Sullivan County Legislature have publicly opposed the closure of the Facility and made statements highlighting the lack of transparency, the procedural violations, and the harm to their constituents occasioned by the closure determination. Exhibit 2.

38. Legislators Scott and McPhillips have specifically noted, among other things: (a) that they were not adequately informed of the closure determination prior to its public announcement; (b) that the closure process failed to comply with applicable law; (c) that the closure will cause irreparable harm to vulnerable residents and their families; and (d) that the legislature proceeded with the closure notwithstanding substantial [and longstanding] public and legislative opposition.

39. The Governing Body proceeded with the closure determination notwithstanding this legislative opposition, further evidencing the arbitrary and capricious nature of the decision and its disregard for the democratic process and the welfare of the county's most vulnerable residents.

G. ABSENCE OF RATIONAL BASIS AND FAILURE TO CONSIDER ALTERNATIVES

40. County Respondents reached the closure determination without conducting or disclosing any of the following:

- i. a competitive bidding or request-for-proposal process to identify private, non-profit, or governmental entities willing and able to operate the Facility;
- ii. an independent fiscal audit or analysis of the Facility's financial condition and long-term sustainability, and a comparison of the cost of closure versus the cost of continued operation;
- iii. a comprehensive resident-impact assessment addressing the health, safety, and welfare consequences of closure and forced relocation, including the risks of transfer trauma;

- iv. a good-faith assessment of, or negotiation with, employee unions and collective bargaining representatives regarding alternatives to closure, operational efficiencies, or workforce transition;
- v. a public analysis of alternative funding mechanisms, including state or federal grants, Medicaid reimbursement optimization, or other revenue sources;
- vi. a formal determination addressing the availability of alternative nursing home placements within Sullivan County or within a reasonable distance for current residents; and
- vii. any documented consideration of less drastic alternatives to complete closure, including partial closure, restructuring, or partnership arrangements.

41. The omission of each and all of the foregoing renders the closure determination arbitrary and capricious as a matter of law. *See Matter of Pell v. Board of Educ.*, 34 N.Y.2d 222, 231 (1974) ("[A] determination is arbitrary and capricious when it is without sound basis in reason and is generally taken without regard to the facts."). Upon information and belief, the closure determination was made on the basis of incomplete, unreliable, or inaccurate fiscal data; was driven by factors unrelated to the legitimate public interest in the welfare of the Facility's residents and failed to comply with any discernible rational decision-making framework.

H. VIOLATION OF RESIDENTS' STATUTORY RIGHTS

42. New York Public Health Law § 2803-c enumerates the rights of nursing home residents, including the right to be treated with respect and dignity, the right to participate in planning their care, and the right to be informed in advance of significant changes in their condition or care. *PHL* § 2801-d provides a private right of action for nursing home residents whose rights are violated by deprivation of goods, services, or rights to which they are entitled.

43. Federal law, specifically the Nursing Home Reform Act, codified at 42 U.S.C. § 1396r, and implementing regulations at 42 C.F.R. Part 483, impose detailed requirements upon nursing home facilities regarding resident discharge planning, advance notice of transfer, and assessment of resident needs prior to any transfer.

44. County Respondents' closure process failed to comply with any of these requirements. County Respondents failed to provide residents adequate advance notice of the closing consistent with applicable law. Nor did respondents develop individualized discharge planning, as required by law. *See Exhibit 6* for Rules promulgated by the Department of Health which govern the closure of nursing homes.

45. Likewise, County Respondents have failed to engage appropriate discharge planning personnel, consult with residents' treating physicians, or otherwise comply with the substantive and procedural requirements governing the discharge and transfer of nursing home residents.

I. TRANSFER TRAUMA AND THE PARTICULAR VULNERABILITY OF DEMENTIA PATIENTS

46. "Transfer trauma" — also referred to in medical literature as "relocation stress syndrome" — is a recognized clinical phenomenon affecting elderly nursing home residents subjected to forced or involuntary relocation. It is characterized by a significant and measurable deterioration in physical health, cognitive function, and emotional well-being following displacement from a familiar residential and care environment. Studies published in peer-reviewed gerontological literature document increases in mortality, depression, anxiety, and functional decline among nursing home residents who are involuntarily transferred.

47. Residents of the Facility's dementia unit faced a heightened risk of transfer trauma. Their shared condition impaired their capacity to adapt to new environments, new caregivers, new routines, and new sensory surroundings. The loss of established relationships with familiar staff members, the disruption of structured care routines, and the disorientation inherent in relocation posed immediate and grave risks to the health, safety, and welfare of these residents. For many, forced relocation may be life-threatening.

48. Despite this well-documented clinical reality, County Respondents' closure determination makes no reference to transfer trauma, includes no resident-impact assessment, contemplates no individualized discharge planning consistent with applicable law, and includes no plan to mitigate the health risks facing the residents of the dementia unit. This omission is not only a legal violation, as set forth below, but a profound moral and institutional failure.

J. VIOLATION OF WARN ACT AND EMPLOYEE RIGHTS

49. The New York State WARN Act, *N.Y. Lab. Law § 860 et seq.*, requires employers employing the requisite number of employees to provide at least sixty (60) days' advance written notice to affected employees, employee representatives, and the applicable governmental agencies prior to a plant closing or mass layoff. The closure of the Facility constitutes a "plant closing" and/or a "mass layoff" within the meaning of applicable WARN Act provisions.

50. Upon information and belief, County Respondents failed to provide the statutorily required WARN Act notice — or timely, adequate notice of any kind — to the approximately 90 employees of the Facility facing job loss as a result of the closure. This failure deprived employees of the notice period to which they are legally entitled, the ability to seek alternative employment or retraining, and related statutory protections.

51. The abrupt and opaque manner in which the closure determination was made and announced, without adequate employee notice, has caused and will continue to cause economic harm, distress, and uncertainty to the Facility's employees and their families.

IV. CAUSES OF ACTION

COUNT I

VIOLATION OF THE OPEN MEETINGS LAW

(PUBLIC OFFICERS LAW §§ 100–111)

52. Petitioners repeat and reallege each and every allegation contained in paragraphs 1 through 51 of this Verified Petition as if fully set forth herein.

53. The New York Open Meetings Law, *Public Officers Law §§ 100–111*, requires that every meeting of a public body — defined to include any entity performing a governmental function, including the Legislature of Sullivan County — be open to the general public, except as expressly authorized by statute. *Public Officers Law § 103(a)*.

54. Executive sessions — the only exception to the open meeting requirement that might conceivably be invoked in this context — are governed by *Public Officers Law § 105*, which

provides that a public body may only convene an executive session upon a majority vote of the total membership, taken at an open meeting, for one or more of the enumerated purposes set forth in § 105(1)(a)–(h). The purpose of any executive session must be identified with reasonable specificity at the time the vote is taken.

55. County Respondents violated the Open Meetings Law by one or more of the following acts and omissions:

- i. conducting deliberations regarding the proposed closure of the Facility in closed or executive sessions not authorized by any enumerated exception to the OML;
- ii. failing to publicly identify with specificity the purpose(s) for which any executive session was convened in connection with the Facility closure, thereby depriving the public and interested parties of any basis to challenge the propriety of the closed session;
- iii. failing to take a vote on any motion to close the facility at an open meeting;
- iv. reaching or ratifying the closure determination in executive session rather than by vote at a duly noticed open meeting;
- v. failing to cause minutes of executive sessions to be made and made available as required by *Public Officers Law* § 106; and
- vi. failing to provide adequate public notice of meetings at which the Facility closure was considered, in violation of *Public Officers Law* § 104.

56. Pursuant to *Public Officers Law* § 107, this Court has jurisdiction to enforce compliance with the Open Meetings Law and to declare any action taken at a meeting that was not open to the public to be void.

57. Petitioners seek an order declaring the closure determination void as a direct consequence of the OML violations described herein, and directing County Respondents to convene a properly noticed, open public hearing on the closure of the Facility at which all interested parties may be heard.

COUNT II

13

ARBITRARY AND CAPRICIOUS DETERMINATION**(CPLR § 7803(3))**

58. Petitioners repeat and reallege each and every allegation contained in paragraphs 1 through 57 of this Petition as if fully set forth herein.

59. Pursuant to *CPLR § 7803(3)*, this Court may review whether a determination was arbitrary and capricious, or an abuse of discretion, and shall annul such determination upon finding that it was. A determination is arbitrary and capricious where it is made without rational basis, in disregard of the facts, or in violation of applicable legal standards. *Matter of Pell v. Board of Educ.*, 34 N.Y.2d 222 (1974).

60. The closure determination is arbitrary and capricious for the following independent and cumulative reasons:

- i. **No Competitive Bidding or RFP Process.** County Respondents made no effort to solicit proposals from private, non-profit, or other governmental entities for the continued operation of the Facility. No competitive bidding process was conducted. No request for proposals was issued. The failure to explore market-based alternatives to closure, prior to a determination of irreversible closure, constitutes a fundamental failure of rational governmental decision-making.
- ii. **No Independent Fiscal Audit.** County Respondents have conducted no independent fiscal analysis, audit, or assessment of the Facility's financial condition or long-term sustainability. County respondents made no comparison between the cost of continued operation and the total cost of closure, including litigation costs, employee severance, resident relocation costs, potential liability, and loss of Medicaid and Medicare reimbursements. Any fiscal basis asserted for the closure is therefore unsupported and irrational.
- iii. **No Resident-Impact Assessment.** County Respondents failed to conduct or disclose an individualized or aggregate assessment of the impact of closure and forced relocation on the physical and psychological health of the Facility's residents,

including the dementia unit residents who faced the gravest risk. The failure to assess resident welfare prior to a closure determination affecting *more than 100* [?] vulnerable individuals is arbitrary and capricious as a matter of law.

- iv. **No Consideration of Transfer Trauma.** As set forth above, transfer trauma is a recognized and documented medical risk for elderly nursing home residents who are involuntarily relocated. County Respondents' closure determination contains no reference to transfer trauma and no plan to mitigate its risks. This omission is not merely procedurally deficient — it reflects a total disregard for the welfare of the residents in whose care the County has assumed responsibility.
- v. **No Good-Faith Engagement with Employees or Unions.** County Respondents made no good-faith effort to engage with employee unions, collective bargaining representatives, or individual employees regarding alternatives to closure, operational reforms, workforce restructuring, or transition planning. Rather, they announced the closure as a *fait accompli* without negotiation, consultation, or collective bargaining as may be required under applicable agreements and law.
- vi. **Disregard of Public Opposition.** County Respondents proceeded with the closure determination notwithstanding significant and documented public opposition, including opposition from elected legislators, including, but not limited to, legislators Scott and Matt McPhillips. A governmental decision made in conscious disregard of substantial, documented public opposition, without rational response to the concerns raised is arbitrary and capricious.
- vii. **Failure to Consider Less Drastic Alternatives.** County Respondents made no documented effort to consider less drastic alternatives to complete closure, including partial closure, reduction in licensed bed capacity, restructuring of services, public-private partnership, management contract, or transfer of operations. Where less drastic alternatives exist and are not considered, a determination imposing the most drastic outcome available is arbitrary and capricious.

61. For each and all of the foregoing reasons, the closure determination must be annulled as arbitrary, capricious, and an abuse of discretion pursuant to *CPLR § 7803(3)*.

COUNT III
CONCEALMENT OF DOH DETERMINATION — VIOLATION OF FOIL,
PUBLIC HEALTH LAW, AND DUE PROCESS
(PUBLIC OFFICERS LAW §§ 84–90; N.Y. PUB. HEALTH LAW §§ 2800 ET SEQ.)

62. Petitioners repeat and reallege each and every allegation contained in paragraphs 1 through 61 of this Petition as if fully set forth herein.

63. The New York Freedom of Information Law, *Public Officers Law §§ 84–90*, establishes a presumption of public access to governmental records. All government records are presumptively available for public inspection and copying, and any exception to disclosure must be narrowly construed. *Public Officers Law § 87(2)*.

64. DOH's participation in the closure process, and any determination, approval, guidance, letter, or communication issued by DOH in connection with the proposed closure, constitutes a governmental record subject to disclosure under FOIL. The deliberate concealment of such records from Petitioners, residents and their families, employees, and the public violates FOIL and the right to open government that underlies it.

65. Furthermore, due process under the New York State Constitution and applicable statutory law requires that those whose rights are substantially affected by governmental determinations be given notice of and an opportunity to participate in the processes by which those determinations are made. Petitioners, as residents, family members of residents and employees of the facility, have a constitutionally and statutorily protected interest in the operation of the Facility and in the welfare of its residents. The concealment of DOH's role and determination deprived Petitioners of the ability to respond to, challenge, or participate in that process.

66. Petitioners seek an order directing full and immediate disclosure of all DOH communications, records, determinations, approvals, and related documents concerning the proposed closure of the Facility, including without limitation all correspondence between County Respondents and DOH, all internal DOH analyses or determinations, and all formal or informal approvals, conditions, or waivers issued by DOH in connection with the closure.

COUNT IV
VIOLATION OF RESIDENTS' RIGHTS
(N.Y. PUBLIC HEALTH LAW §§ 2801-D AND 2803-C;
42 U.S.C. § 1396R; 42 C.F.R. PART 483)

67. Petitioners repeat and reallege each and every allegation contained in paragraphs 1 through 66 of this Petition as if fully set forth herein.

68. New York Public Health Law § 2803-c provides that every patient or resident of a nursing home or related facility has the right, *inter alia*, to be fully informed in advance about care and treatment and any changes in that care or treatment, to participate in planning care and treatment, to be treated with consideration, respect, and full recognition of dignity and individuality, and to be free from mental and physical abuse.

69. New York Public Health Law § 2801-d provides that any patient or resident of a nursing home who is deprived of any right or benefit created or established for the well-being of the patient or resident by the terms of any contract, by State statute, code, rule or regulation, or by any applicable federal statute, code, rule or regulation, may maintain a cause of action against the nursing home.

70. Federal law and implementing regulations, including 42 C.F.R. § 483.15, impose detailed requirements upon nursing home facilities regarding discharge planning, advance notice of transfer, and the preparation of individualized discharge plans that account for the clinical needs, preferences, and circumstances of each resident.

71. County Respondents' closure process violates the foregoing statutory and regulatory requirements in the following respects, among others:

- i. residents of the Facility were not provided adequate advance notice of the closure consistent with applicable statutory and regulatory requirements;
- ii. individualized discharge planning, including assessment of each resident's clinical needs, physician consultation, family notification, and identification of appropriate receiving facilities, was not conducted or disclosed;

- iii. the residents of the dementia unit, whose capacity to process and adapt to information regarding their impending transfer is severely compromised, were never provided with legally required support, individualized planning, or notice tailored to their cognitive needs;
- iv. County Respondents have not established or disclosed a plan to ensure the health, safety, and dignity of residents during and after the transfer process; and
- v. the closure timeline as announced in the August 19 Press Release did not allow adequate time for compliant discharge planning for all residents.

72. Petitioners seek an order directing County Respondents to prepare, publicly disclose, and submit to judicial review a comprehensive, legally compliant resident relocation plan prior to the taking of any further steps toward closure of the Facility.

COUNT V

VIOLATION OF EMPLOYEE RIGHTS — WARN ACT (29 U.S.C. § 2101 ET SEQ.; N.Y. LAB. LAW § 860 ET SEQ.)

73. Petitioners repeat and reallege each and every allegation contained in paragraphs 1 through 72 of this Petition as if fully set forth herein.

74. The federal WARN Act, *29 U.S.C. § 2101 et seq.*, requires any employer with one hundred (100) or more employees to provide at least sixty (60) calendar days' advance written notice before ordering a plant closing or mass layoff. The New York State WARN Act, *N.Y. Lab. Law § 860 et seq.*, imposes similar and in some respects more stringent requirements, including ninety (90) days' advance notice, and applies to employers with fifty (50) or more full-time employees.

75. County Respondents, as employer of the approximately 90 employees of the Facility, are subject to the requirements of the state WARN Act. The closure of the Facility constitutes a "plant closing" within the meaning of that statute, and will result in the employment loss of more than the threshold number of employees within the applicable time period.

76. Upon information and belief, County Respondents failed to provide adequate and timely notice to affected employees, employee bargaining representatives, the New York State

Department of Labor, and affected local government entities, in violation of applicable state law. Accordingly, respondent County deprived employees of the notice period to which they are entitled, thereby preventing them from seeking alternative employment, retraining, and other transitional support within the notice period.

77. Employees of the Facility are entitled to all remedies provided under applicable WARN Act statutes, and Petitioners seek such relief on behalf of themselves and all similarly situated employees of the Facility.

COUNT VI

VIOLATION OF THE PUBLIC TRUST —

DUTY TO VULNERABLE RESIDENTS AND THE COMMUNITY

78. Petitioners repeat and reallege each and every allegation contained in paragraphs 1 through 77 of this Petition as if fully set forth herein.

79. A county-operated nursing home is a public institution created and maintained by government for the benefit of its most vulnerable citizens. The residents of the Facility placed themselves, or were placed by their families, in the care of Sullivan County because they had no other adequate option. They relied — as they had every right to rely — upon the County's commitment to their welfare.

80. The closure of a public nursing home, carried out in secrecy, without public deliberation, without consideration of resident welfare, without compliance with applicable law, and in defiance of legislative opposition, constitutes a fundamental breach of the public trust. A government that operates a nursing home undertakes a solemn duty of care to the residents entrusted to it. That duty does not terminate because of fiscal inconvenience. It requires lawful, transparent, and humane decision-making.

81. County Respondents' conduct in this matter — the secret deliberations, the concealment of the DOH's involvement, the failure to hold a public hearing, the absence of any resident-impact assessment, the disregard of legislative opposition, and the abrupt press release announcement —

collectively constitute a violation of the public trust that this Court has both the authority and the obligation to redress.

82. This Court should exercise its equitable authority under *CPLR Article 78* to stay the closure, require lawful process, and protect the residents and employees of the Facility from the consequences of governmental misconduct.

V. PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully pray that this Court grant relief as follows:

- i. **A TRO and preliminary injunction**, pursuant to *CPLR § 7805*, staying and enjoining the closure of the facility and all related actions, including the discharge or further transfer of any resident and the termination of any employee, pending full resolution of this proceeding and Respondents' compliance with all applicable law;
- ii. **A permanent injunction** staying the closure of the Facility unless and until County Respondents: (a) comply fully with the Open Meetings Law; (b) hold a properly noticed public hearing at which all interested persons may be heard; (c) conduct and publicly disclose an independent fiscal audit and resident-impact assessment; (d) prepare and disclose a legally compliant resident relocation plan; and (e) otherwise comply with all applicable law;
- iii. **An order annulling and vacating** the closure determination, pursuant to *CPLR § 7806*, as arbitrary, capricious, an abuse of discretion, made in violation of lawful procedure and in violation of the Open Meetings Law and applicable statutes;
- iv. **An order declaring void**, pursuant to *Public Officers Law § 107*, any and all actions taken by the Governing Body in connection with the closure determination that were taken at meetings not in compliance with the Open Meetings Law, including any meetings or executive sessions not properly noticed, authorized or recorded;

- vi. **An order directing County Respondents** to convene and hold a duly noticed public hearing on the proposed closure of the Facility, upon reasonable public notice of not less than thirty (30) days, at which all interested persons — including residents, family members, employees, union representatives, advocates, and members of the public — are afforded a full and meaningful opportunity to be heard;
- vii. **An order directing County Respondents** to prepare and publicly disclose, prior to the taking of any further steps toward closure, a comprehensive resident relocation plan that: (a) identifies appropriate alternative placements for each resident; (b) provides for individualized discharge planning consistent with applicable law; (c) addresses the specific needs of dementia unit residents; (d) mitigates the risks of transfer trauma; and (e) provides for continuity of care for all residents during and after any transition;
- viii. **An order directing County Respondents** to comply with all applicable WARN Act notice requirements and to provide employees with all statutory rights and remedies to which they are entitled thereunder;
- ix. **An award of attorneys' fees and costs** to Petitioners pursuant to applicable law, including *Public Officers Law § 107(2)* (OML fees and costs) and any other applicable statutory provision;
- x. **Such other and further relief** as this Court deems just, proper, and equitable under the circumstances.

Dated: September 8, 2026

Yours, etc.


MICHAEL H. SUSSMAN

SUSSMAN & ASSOCIATES

Counsel for Petitioners

PO BOX 1005 – 1 Railroad Avenue, Ste. 3

GOSHEN, NY 10924

(845)-294-3991

Sussman1@sussman.law

VERIFICATION

STATE OF NEW YORK)

) ss:s.

COUNTY OF SULLIVAN)

Wendy Zeidner, being duly sworn, deposes and says:

I am a Petitioner in the above-captioned proceeding. I have read the foregoing Verified Petition and know the contents thereof. The same is true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters, I believe them to be true. The grounds of my belief as to all matters not stated upon my own knowledge are the records and files in this proceeding, interviews with other Petitioners and concerned parties, and such other information and documents as are described herein or annexed as exhibits.

I make this verification because Petitioners reside in Sullivan County, New York, where this proceeding is brought.

Signed and sworn to before me this 8TH day of SEPTEMBER, 20 26.

Carol M. Montana

Notary Public

CAROL M MONTANA
Notary Public, State of New York
No. 01MO4945124
Qualified in SULLIVAN County
Commission Expires 12/12/2026

My Commission Expires: 12/12/26

Wendy Jane Zeidner
9/8/26

VERIFICATION

STATE OF NEW YORK)

) ss:s.

COUNTY OF SULLIVAN)

Leslie Hakans, being duly sworn, deposes and says:

I am a Petitioner in the above-captioned proceeding. I have read the foregoing Verified Petition and know the contents thereof. The same is true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters, I believe them to be true. The grounds of my belief as to all matters not stated upon my own knowledge are the records and files in this proceeding, interviews with other Petitioners and concerned parties, and such other information and documents as are described herein or annexed as exhibits.

Signed and sworn to before me this 8TH day of SEPTEMBER, 2026.Carol M. Montana

Notary Public

My Commission Expires:

12/12/26

CAROL M MONTANA
Notary Public, State of New York
No. 01MO4945124
Qualified in SULLIVAN County
Commission Expires 12/12/2026

X Leslie Hakans 9-8-26

VERIFICATION

STATE OF NEW YORK)

) ss:s.

COUNTY OF SULLIVAN)

Bonnie Lewis, being duly sworn, deposes and says:

I am a Petitioner in the above-captioned proceeding. I have read the foregoing Verified Petition and know the contents thereof. The same is true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters, I believe them to be true. The grounds of my belief as to all matters not stated upon my own knowledge are the records and files in this proceeding, interviews with other Petitioners and concerned parties, and such other information and documents as are described herein or annexed as exhibits.

Signed and sworn to before me this 8TH day of SEPTEMBER 20 26Carol M. Montana

Notary Public

CAROL M MONTANA
Notary Public, State of New York
No. 01MO4945124
Qualified in SULLIVAN County
Commission Expires 12/12/20 26

My Commission Expires: 12/12/26

X Bonnie J Lewis
9/8/26

VERIFICATION

STATE OF NEW YORK)

) ss:s.

COUNTY OF SULLIVAN)

Janet Mentnech, being duly sworn, deposes and says:

I am a Petitioner in the above-captioned proceeding. I have read the foregoing Verified Petition and know the contents thereof. The same is true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters, I believe them to be true. The grounds of my belief as to all matters not stated upon my own knowledge are the records and files in this proceeding, interviews with other Petitioners and concerned parties, and such other information and documents as are described herein or annexed as exhibits.

I make this verification because Petitioners reside in Sullivan County, New York, where this proceeding is brought.

Signed and sworn to before me this 9TH day of SEPTEMBER, 2026.

Carol M Montana

Notary Public

My Commission Expires: 12/12/26

CAROL M MONTANA
Notary Public, State of New York
No. 01MO4945124
Qualified in SULLIVAN County
Commission Expires 12/12/2026

Janet Mentnech
9/8/26

VERIFICATION

STATE OF NEW YORK)

) ss:s.

COUNTY OF SULLIVAN)

Dawn Halstead, being duly sworn, deposes and says:

I am a Petitioner in the above-captioned proceeding. I have read the foregoing Verified Petition and know the contents thereof. The same is true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters, I believe them to be true. The grounds of my belief as to all matters not stated upon my own knowledge are the records and files in this proceeding, interviews with other Petitioners and concerned parties, and such other information and documents as are described herein or annexed as exhibits.

I make this verification because Petitioners reside in Sullivan County, New York, where this proceeding is brought.

Signed and sworn to before me this 8TH day of September, 2026Carol M. Montana

Notary Public

CAROL M MONTANA
Notary Public, State of New York
No. 01MO4945124
Qualified in SULLIVAN County
Commission Expires 12/12/2026

My Commission Expires: 12/12/26

x Dawn Halstead
9-8-26

VERIFICATION

STATE OF NEW YORK)

) ss:s.

COUNTY OF SULLIVAN)

Mildred Jackson, being duly sworn, deposes and says:

I am a Petitioner in the above-captioned proceeding. I have read the foregoing Verified Petition and know the contents thereof. The same is true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters, I believe them to be true. The grounds of my belief as to all matters not stated upon my own knowledge are the records and files in this proceeding, interviews with other Petitioners and concerned parties, and such other information and documents as are described herein or annexed as exhibits.

I make this verification because Petitioners reside in Sullivan County, New York, where this proceeding is brought.

Signed and sworn to before me this 8TH day of SEPTEMBER, 20 26.Carol M. Montana

Notary Public.

CAROL M MONTANA
Notary Public, State of New York
No. 01MO4945124
Qualified in SULLIVAN County
Commission Expires 12/12/2026

My Commission Expires: 12/12/26

x Mildred Jackson
9-8-26