



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

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ATTORNEY GENERAL

June 13, 2017

Via electronic mail

Mr. Michael A. Dowell
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Rock Falls, Illinois 61071
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Via electronic mail

Mr. Timothy B. Zollinger
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P.O. Box 400
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RE: OMA Request for Review – 2016 PAC 43739

Dear Mr. Dowell and Mr. Zollinger:

This determination is issued pursuant to section 3.5(e) of OMA (5 LCS 120/3.5(e) (West 2015 Supp.)). For the reasons stated below, the Public Access Bureau concludes that the Whiteside County Airport Board (Board) violated OMA by failing to provide sufficient advance notice for its August 22, 2016, special meeting.

In his Request for Review, Mr. Michael Dowell, the manager of the Airport, stated that on August 18, 2016, the Board sent him notice for its August 22, 2016, special meeting, which he posted on the door of the Airport terminal that afternoon. Mr. Dowell alleges that the notice was insufficient because (1) it did not include the time of the meeting; and (2) it was posted less than 48 hours before the meeting commenced, measured in business days.

On August 26, 2016, this office sent a copy of the Request for Review to the Board and asked it to provide a written response to the allegations in the Request for Review together with a copy of the notice and agenda of the Airport Board's August 22, 2016, meeting. On September 2, 2016, counsel for the Board responded that notice for the meeting was sent to

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Mr. Dowell for posting about 73 ½ hours before the meeting commenced, but acknowledged that the notice failed to include the time of the meeting due to a scrivener's error. The Board acknowledged that the failure to include the time of meeting constituted a technical violation of OMA, but emphasized that the special meeting was held for the purpose of a closed session discussion, and that no final action was taken.

DETERMINATION

It is the "public policy of this State that its citizens shall be given advance notice of and the right to attend all meetings at which any business of a public body is discussed or acted upon in any way." 5 ILCS 120/1 (West 2014). To that end, section 2.02(a) of OMA (5 ILCS 120/2.02(a) (West 2014)) requires the posting of regular meeting agendas and provides that "[p]ublic notice of any special meeting except a meeting held in the event of a bona fide emergency, or of any rescheduled regular meeting, or of any reconvened meeting, shall be given at least 48 hours before such meeting, which notice shall also include the agenda for the special, rescheduled, or reconvened meeting[.]" No provision of OMA, however, limits the 48-hour advance notice period to the public body's business hours. Rather, section 2.02(c) of OMA (5 ILCS 120/2.02(c) (West 2014)) requires the public body to "ensure that at least one copy of any requested notice and agenda for the meeting is continuously available for public review during the entire 48-hour period preceding the meeting." The Public Access Bureau has previously determined that an agenda must be visible during non-business hours to be "continuously available" for purposes of section 2.02(a) of OMA. Ill. Att'y Gen PAC Req. Rev. Ltr. 43171, issued September 21, 2016 (agenda posted outside front steps of city hall was continuously available); Ill. Att'y Gen. PAC Req. Rev. Ltr. 47489, 47491, issued May 26, 2017 (agenda that was difficult to read because it was posted in a glass case behind doors that were locked after business hours was not continuously available).

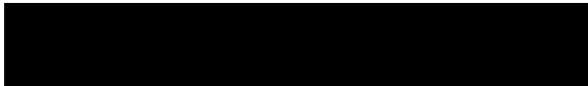
Here, Mr. Dowell states that he posted the agenda on the door of the Airport terminal, but appears to allege that the requirements of section 2.02(a) were not satisfied because the 48-hour period preceding the meeting included non-business hours. He did not, however, describe the extent to which the agenda was visible or allege that members of the public were unable to view it at the Airport terminal during non-business hours. Therefore, based on the available information, this office is unable to conclude that the Board violated section 2.02(a) of OMA on that basis. If it has not already done so, this office recommends that the Board take measures to ensure that notice for its meetings is posted in a manner that makes it continuously visible to the public during the Airport's non-business hours.

With respect to the content of the posted notice, it is undisputed that the failure to include the time of the meeting violated section 2.02(a) of OMA. However, because that omission appears to have been inadvertent and because no final action was taken at the meeting, no action by the Board is required to remedy that technical violation.

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The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. If you have any questions, please contact me at (312) 814-6756. This file is closed.

Very truly yours,



STEVE SILVERMAN
Bureau Chief
Public Access Bureau

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