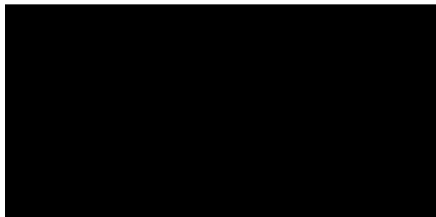




OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

August 14, 2013



Mr. August Griffin
Edgar County Clerk and Recorder
Edgar County
115 West Court Street, Room J
Paris, Illinois 61944

RE: OMA Request for Review – 2012 PAC 22542

Dear [REDACTED] and Mr. Griffin:

This determination letter is issued pursuant to section 3.5(e) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(e) (West 2012)). For the reasons that follow, the Public Access Bureau concludes that the Edgar County Board (Board) violated section 2.02(b) OMA (5 ILCS 120/2.02(b) (West 2012)), by failing to post notice of its December 3, 2012, special meeting on the Edgar County website.

[REDACTED] alleges that on December 3, 2012, the Board held a special meeting at 9:00 a.m. in the Edgar County Courthouse without providing proper notice pursuant to OMA and the Counties Code (55 ILCS 5/1 *et seq.* (West 2012)). This office forwarded a copy of the Request for Review to the Board and asked it to provide a written response to [REDACTED] allegation concerning OMA, along with a copy of the special meeting notice. On December 31, 2012, the Board responded by providing this office with copies of the notice and agenda for the Board's December 2, 2012, special meeting. In a subsequent e-mail to an Assistant Attorney General in the Public Access Bureau, the Board confirmed that it had failed to post the agenda on

██████████
Mr. August Griffin
August 14, 2013
Page 2

the Edgar County website prior to the December 3, 2012, special meeting; the Board also acknowledged that its website is maintained by full-time staff.¹


DETERMINATION

Section 1 of OMA (5 ILCS 120/1 (West 2012)) provides that 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." (Emphasis added.). Section 2.02(a) of OMA (5 ILCS 120/2.02(a) (West 2012)) further 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[.]" In addition, section 2.02(b) of OMA requires a public body with a website maintained by the full-time staff of the public body to post notice on its website of all meetings of the governing body of the public body. Section 2.02(b) also provides, however, that "[t]he failure of a public body to post on its website notice of any meeting or the agenda of any meeting shall not invalidate any meeting or any actions taken at a meeting."

The Board provided the Public Access Bureau with a copy of the notice and agenda posted for the December 3, 2012, special meeting at the Edgar County Courthouse, which is both the principal office of the Board and the location for its meetings. The notice, dated November 20, 2012, identifies the time and location of the special meeting. The Board's initial response to this office stated that the notice was posted at the courthouse more than 48 hours before the meeting commenced in accordance with section 2.02(a) of OMA. However, the Board, which is the governing body of the County, acknowledged that it failed to post notice of the meeting on the County's website that is maintained by the County's full-time staff. Because section 2.02(b) of OMA expressly provides that the a public body's failure to provide notice on its website shall not invalidate any meetings or actions taken at a meeting, no remedial action is required. This office cautions the Board to be mindful of its obligations to comply with the requirements of OMA at all future meetings.


██████████ also alleges that the Board violated the notice requirements for special meetings set forth in section 2-1002 of the Counties Code (55 ILCS 5/2-1002 (West 2012)). However, pursuant to section 7(c)(3) of the Attorney General Act (15 ILCS 205/7(c)(3) (West 2012)), the Public Access Counselor's authority to resolve disputes is limited to alleged violations of OMA and the Freedom of Information Act (5 ILCS 140/1 *et seq.* (West 2012)). Therefore, this office is precluded from reviewing alleged violations of the notice requirements of the Counties Code, which are beyond the scope of OMA.

¹ E-mail from August Griffin, Edgar County Clerk and Recorder, to Christopher R. Boggs, Assistant Attorney General, Public Access Bureau (August 14, 2013).


Mr. August Griffin
August 14, 2013
Page 3

The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. If you have any question, please contact me at (217) 785-7438. This letter shall serve to close this matter.

Very truly yours,


CHRISTOPHER R. BOGGS
Assistant Attorney General
Public Access Bureau

22542 o 202b improper county