



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

May 19, 2014

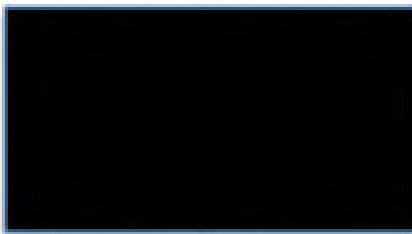
Via electronic mail

Ms. Megan Fox

[REDACTED]@gmail.com

Mr. Kevin DuJan

[REDACTED]



Ms. Nancy Healy
Board President
Orland Park Public Library
14921 Ravinia Avenue
Orland Park, Illinois 60462

RE: OMA Requests for Review – 2014 PAC 27987, 27993, 28046, 28047

Dear Ms. Fox, Mr. DuJan, Ms. Haufaire, Ms. Alfonso, and Ms. Healy:

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 set out below, the Public Access Bureau concludes that the Orland Park Public Library Board of Trustees (Board) violated OMA by holding a special meeting on February 12, 2014, a legal holiday in Illinois.

BACKGROUND

Between February 13, 2014, and February 17, 2014, the Public Access Bureau received four Requests for Review alleging that the Board held a special meeting on February 12, 2014, in violation of the provisions of the Open Meetings Act. Specifically, the Requests for Review alleged that: (1) the Board's February 12, 2014, special meeting was held on Abraham Lincoln's Birthday, a legal holiday, in violation of section 2.01 of OMA (5 ILCS 120/2.01 (West 2012)); (2) proper notice of the meeting was not provided as required under section 2.02 of

OMA (5 ILCS 120/2.02 (West 2012)), and (3) public comments were not allowed during the meeting as required by section 2.06(g) of OMA (5 ILCS 120/2.06(g) (West 2012)). Because each of the four Requests for Review concerns the same meeting and the same issues, we have consolidated these matters in this determination and will refer to them collectively as the "Requests for Review."

On February 24, 2014, the Public Access Bureau forwarded copies of the Requests for Review to the Board and asked it to respond to the allegations therein. We also requested copies of the meeting agenda, minutes, and recordings of the February 12, 2014, special meeting.

The Board responded on March 14, 2014, contending that the February 12, 2014, special meeting did not violate section 2.01 of OMA because Lincoln's Birthday is not a federal holiday and is not a holiday granted to Orland Park Public Library employees. The Board noted that copies of the notice and agenda for the February 12, 2014, special meeting were sent to local newspapers on February 7, 2014, and were also posted at the Library's principal office and website. The Board did not deny that public comments were not allowed, but asserted that "there is no requirement that members of the public audience must be given the opportunity to speak[]"¹ during special meetings.

On March 19, 2014, the Board submitted a supplemental response to this office, stating that a number of public bodies in Illinois do not observe February 12th as a legal holiday and have conducted special meetings on that date.

On March 20, 2014, this office forwarded copies of the Board's response to Ms. Fox, Ms. Hauflaire, Ms. Alfonso, and Mr. DuJan. This office received replies from Ms. Fox, Ms. Hauflaire, and Mr. DuJan in which they reiterated their allegations that the Board's February 12, 2014, meeting violated the provisions of OMA. Mr. DuJan's reply explained that the "regularly scheduled Board Meetings are held on the third Monday of each month" and that February 12, 2014, was not a regular meeting date.

In a supplemental response to this office, the Board stated that it "has now ratified and confirmed each and every action it took at the February 12, 2014, meeting during its regular monthly meeting held on March 17, 2014."² (Issues concerning the Board's vote to confirm the

¹Letter from Dennis G. Walsh, Klein, Thorpe & Jenkins, Ltd., to Tola Sobitan, Assistant Attorney General, Public Access Bureau (March 14, 2014) at 4.

²Letter from Dennis G. Walsh, Klein, Thorpe and Jenkins, Ltd., to Tola Sobitan, Assistant

actions taken at the February 12, 2014, special meeting are the subject of another pending Request for Review, 2014 PAC 28510.)

DETERMINATION

Section 2.01 of OMA provides, in pertinent part:

All meetings required by this Act to be public shall be held at specified times and places which are convenient and open to the public. ***No meeting required by this Act to be public shall be held on a legal holiday unless the regular meeting day falls on that holiday.*** (Emphasis added.)

The term "legal holiday" is not defined in that Act.

Section 60 of the State Commemorative Dates Act (5 ILCS 490/60 (West 2012)) states:

Lincoln's Birthday. The twelfth day of February of each year shall be ***a legal holiday*** to be known as Lincoln's Birthday to be observed as a day on which to hold appropriate exercises in commemoration of our illustrious President. When February twelfth shall fall on a Sunday, the following Monday shall be held and considered the holiday. (Emphasis added.)³

In *Bertell v. Rockford Memorial Hospital*, 393 Ill.App.3d 469, 470 (2nd Dist. 2009), the Illinois Appellate Court considered whether Lincoln's Birthday constituted a legal holiday for the purpose of determining whether a petition for involuntary commitment had been timely under the Mental Health and Developmental Disabilities Code (405 ILCS 5/3-600 (West 2012)). The court concluded:

[W]hen the legislature specifically chose to designate Lincoln's Birthday a "legal holiday," it did so with full awareness of the

Attorney General, Public Access Bureau (March 19, 2014).

³ Section 17(a) of the Promissory Note and Bank Holiday Act (205 ILCS 630/17(a) (West 2012)) similarly designates the twelfth day in February (Abraham Lincoln's Birthday) as one of the "legal holidays in the State of Illinois upon which day a bank may, but is not required to, remain closed[.]"

customary and well-established meaning of that term. We note that the term "holiday" appears in four other sections of the [State Commemorative Dates] Act * * * but not in the sections pertaining to the many other special days (or months) that the Act lists. Thus, the Act recognizes a distinction between days that are merely to be observed, with no special legal status, and "holidays." To refuse to attach significance to the legislature's conscious choice to call Lincoln's Birthday a "legal holiday" would not only ignore a common usage of which the legislature was no doubt aware but would, in effect, render superfluous the term "holiday" in section 60. * * * Had the legislature not meant to attach consequences to Lincoln's Birthday besides the voluntary "commemoration of our illustrious President" (5 ILCS 490/60 (West 2006)), it would not have bothered to designate it as a "holiday." *Rockford Memorial Hospital*, 393 Ill.App.3d at 474.

Accordingly, absent a definition in OMA otherwise providing, we conclude that Lincoln's Birthday is a "legal holiday," as that term is used in section 2.01 of OMA.

The Illinois Appellate Court has interpreted section 2.01 to mean that "no meeting (regular, special, rescheduled or reconvened meeting) could be held on a **holiday** unless the legal **holiday** was the same day as the regular meeting day and the regular meeting was not held on that day." (Emphasis in original.) *Argo High School Council of Local 571 v. Argo Community High School District 217*, 163 Ill.App.3d 578, 580 (1st Dist. 1987). In the *Argo High School* case, the court held that a school board did not violate OMA by holding a special meeting on November 11, 1985, Veterans' Day, because that legal holiday fell on the same day as the board's regular meeting, which had been rescheduled. *Argo High School Council of Local 571*, 163 Ill.App.3d at 581.

It appears that the Board's regular meeting for the month of February was scheduled for Monday, February 17, 2014.⁴ The fact that the Library was open to the public on February 12, 2014, a legal holiday, has no bearing on whether the Board could hold a special meeting on that date. The Public Access Bureau has previously advised that section 2.01 of OMA "contains no exception permitting public bodies to hold special meetings on legal holidays when those holidays are not observed by the public body." Ill. Att'y Gen. PAC Req. Rev. Ltr. 17474, issued October 17, 2012, at 2 (holding that Bridgeport City Council violated section 2.01

⁴2014 Schedule Meetings of the Board of Trustees (DOCX), <<http://www.orlandparklibrary.org/about.htm>> (last accessed April 23, 2014).

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by holding a special meeting on November 11, 2011, Veterans' Day, even though Veterans Day was not a holiday granted to City employees).

Therefore, this office concludes that the Board violated section 2.01 of OMA by holding a special meeting on a legal holiday. Because the February 12, 2014, special meeting was improperly held, the issues of whether the Board violated the requirements of OMA by failing to provide adequate advance notice of the special meeting and by prohibiting public comment are moot.

The Public Access Bureau has determined that resolution of these matters does not require the issuance of a binding opinion. If you have any questions, please contact me at (312) 814-6437, or via mail at the Chicago address listed on the first page of this letter. This letter serves to close these matters.

Very truly yours,



TOLA SOBITAN
Assistant Attorney General
Public Access Bureau

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cc: Dennis G. Walsh
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