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SPRINGFIELD

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FILE NO. 82-030

MEETINGS:

Open Meetings Act - Application to
Committees of a Public Body

Honorable Dallas C. Ingemunson
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Dear Mr. Ingemunson:

I have your letter wherein you inquire whether the Open Meetings Act (Ill. Rev. Stat. 1981, ch. 102, par. 41 et seq.) applies to committees of a public body consisting of less than a majority of a quorum of such body. You advise that it is your opinion that the Act applies to such committees. I agree with your opinion.

The principal mandate of the Open Meetings Act is that, with certain exceptions not relevant here, "all meetings of public bodies shall be public meetings * * *". (Ill. Rev. Stat. 1981, ch. 102, par. 42.) The Act also contains provisions establishing procedures for lawfully closing meetings to

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the public (Ill. Rev. Stat. 1981, ch. 102, par. 42a), the proper time and place for public meetings (Ill. Rev. Stat. 1981, ch. 102, par. 42.01), the requisite public notice for such meetings (Ill. Rev. Stat. 1981, ch. 102, par. 42.02), and other requirements governing public access to the conduct of public business by governmental bodies. (Ill. Rev. Stat. 1981, ch. 102, pars. 42.03 through 42.06.)

Section 1.02 of the Act (Ill. Rev. Stat. 1981, ch. 102, par. 41.02) defines the term "meeting" as "any gathering of a majority of a quorum of the members of a public body held for the purpose of discussing public business". The issue raised in your letter centers on the meaning of the term "public body", as used in the definition of "meeting" and other provisions of the Act, which is also defined in section 1.02 of the Act:

" * * *

'Public body' includes all legislative, executive, administrative or advisory bodies of the state, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees or commissions of this State, and any subsidiary bodies of any of the foregoing including but not limited to committees and subcommittees which are supported in whole or in part by tax revenue, or which expend tax revenue, except the General Assembly and committees or commissions thereof. (Emphasis added.)

The language of the above definition is plain and unequivocal. Plain and unambiguous provisions of a statute do

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not need construction, and exceptions or limitations which depart from a statute's plain meaning may not be read into its provisions. (Nordine v. Illinois Power Company (1965), 32 Ill. 2d 421.) Because a subsidiary body of any public body is expressly included within the Act's definition of public body, each subsidiary body of another public body is considered a separate public body under the Act. Therefore, the Act's principal mandate as well as all other requirements of the Act apply to such subsidiary bodies.

This conclusion is consistent with judicial interpretation of the Open Meetings Act. In People ex rel. Difanis v. Barr (1980), 83 Ill. 2d 191, the supreme court gave an expansive interpretation to the definition of public body in holding the Act applicable to a "political caucus" of city council members. In Pope v. Parkinson (1977), 48 Ill. App. 3d 797, the Open Meetings Act was held not to apply to an advisory committee but this was because the committee had neither been appointed by nor was subsidiary to any public body. In contrast to that case, there is no question on these facts that the committee at issue is a subsidiary body of a public body.

Because each subsidiary body of a public body is a separate public body under the Open Meetings Act, the Act is applicable any time there is a gathering of a majority of a quorum of the members of such subsidiary body held for the

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purpose of discussing business. (Ill. Rev. Stat. 1981, ch. 102, pars. 41.02, 42.) Whether the Act's requirements are applicable is therefore not dependent upon the total number of members of the principal public body, but upon the membership of each subsidiary body thereof.

An example of the Act's application is best drawn by reference to a seven member principal public body. A majority of the quorum of such a body is three and thus, two members of the body could discuss the body's business without complying with the requirements of the Open Meetings Act. However, if the two members are members of a committee or other subsidiary body of the principal public body, and if such committee or subsidiary body consists of five or fewer members, the Act would apply to the discussion of the two members relative to the business of the committee or subsidiary body. Thus, the creation of two member committees by a seven member public body does not operate to circumvent the provisions of the Open Meetings Act since the Act applies separately to the committees.

For these reasons, it is my opinion that the Open Meetings Act applies to a meeting of a committee or any other subsidiary body consisting of less than a majority of a quorum of the members of the public body to which it is subsidiary.

Very truly yours,


ATTORNEY GENERAL