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SPRINGFIELD

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FILE NO. S-1375

MEETINGS:  
Applicability of Open Meetings Act  
to Private Agency Serving as  
Alcohol Detoxification Center

Honorable Thomas J. Difanis  
State's Attorney, Champaign County  
Court House  
Urbana, Illinois 61801

Dear Mr. Difanis:

I have your letter asking about the application of the Open Meetings Act (Ill. Rev. Stat. 1977, ch. 102, par. 41 et seq.) to the Board of Directors of the Champaign County Council on Alcoholism. You indicate that the Council is a private non-profit corporation organized under the laws of Illinois and that the Department of Mental Health and Developmental Disabilities has contracted with it to serve as the detoxification center in its area. You ask whether the Open Meetings Act applies to the meetings of the Council's Board of Directors.

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In my opinion, the Act does not apply to such meetings.

Section 2 of the Alcoholism and Intoxication Treatment Act (Ill. Rev. Stat. 1977, ch. 91 1/2, par. 502) defines "detoxification facility" as "a public or private treatment facility capable of providing, on site or by contractual agreement, immediate and short term emergency medical care and other treatment under this Act. Facilities not providing emergency medical services shall contract for those services." Section 8 of the Act (Ill. Rev. Stat. 1977, ch. 91 1/2, par. 508) provides in part that:

" \* \* \*

(3) The Department shall provide for adequate and appropriate treatment for alcoholics and intoxicated persons admitted under Sections 11 to 14.

\* \* \*

(6) The division may contract for the use of any facility as a public treatment facility if the Director considers this to be an effective and economical course to follow."

Section 9 of the Act (Ill. Rev. Stat. 1977, ch. 91 1/2, par. 509) further provides that private and public treatment facilities are to be regulated and inspected by the Department of Public Health. These provisions make it clear that such facilities, if operated by private agencies, are not organs or branches of

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government; they merely provide services under government contract.

Section 2 of the Open Meetings Act (Ill. Rev. Stat. 1977, ch. 102, par. 42) states that it applies to:

"All meetings of any legislative, executive, administrative or advisory bodies of the State, \* \* \* 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 \* \* \*."

\* \* \*

Although this is a broad and far-reaching provision, it does not by its terms cover all entities that deal with the State. For example, a corporation contracting with the State to build or repair highways obviously need not open meetings of its board of directors to the public. Nor in my opinion does a corporation contracting with the State to provide detoxification service for the public. Such a corporation clearly does not fall within the words "legislative, executive, administrative or advisory bodies of the State, \* \* \* boards, bureaus, committees or commissions of this State." Therefore, if it is to be covered by the Act it must come within the words "and any subsidiary bodies of any of the foregoing." While the word "subsidiary" is not ordinarily used to describe governmental bodies, its use in the

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world of profit-making corporations is instructive. A "subsidiary corporation" is one controlled by another corporation because the other owns at least a majority of its stock. Rines v. Club Corp. of America (Tex. Civ. App. 1976), 542 S.W. 2d 909, 912; Black's Law Dictionary (4th ed. 1968). In the present situation the State has only a contractual, not an ownership relation to the Council on Alcoholism. In this respect the Council on Alcoholism is similar to the area agencies on aging, which I advised in opinion No. S-891 (1975 Ill. Att'y. Gen. Op. 86) are not State agencies.

Nor does the Act's reference to expenditure of tax revenue change this result. The Act covers "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". (Emphasis added.) In unpublished opinion No. NP-585 (1973) I advised that State committees and subcommittees that do not expend tax revenue are not thereby exempted from the Act. But the Council on Alcoholism is not a committee or subcommittee of State government, and as discussed above is not a subsidiary body of a State agency either. In Kentucky Region Eight v. Commonwealth

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(Ky. 1974), 507 S.W. 2d 489, 490, 491, the argument was made that private, non-profit corporations helping to administer the State's mental health program were State agencies so as to be included in the State's retirement system. But the Kentucky Court of Appeals disagreed, stating that:

" \* \* \*

The mere fact that the corporations receive and administer grants of state funds does not mean that they are state agencies. \* \* \*

\* \* \*

Because I conclude that the Champaign County Council on Alcoholism is neither a State agency nor any other entity described by the Open Meetings Act, it is my opinion that the Council is not legally required to keep its meetings open to the public.

Very truly yours,

A T T O R N E Y   G E N E R A L