



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

December 27, 2018

Via electronic mail
The Honorable Alyssia Benford
alyssiabenford@comcast.net

RE: OMA Request for Review – 2018 PAC 56195

Dear Ms. Benford:

This determination letter is issued pursuant to section 3.5(b) of the Open Meetings Act (OMA) (5 ILCS 120/ 3.5(b) (West 2016)). For the reasons set forth below, the Public Access Bureau concludes that no further action in this matter is warranted.

In your Request for Review, received December 20, 2018, you claimed that the Public Participation Ordinance adopted by the DuPage Township Board (Board), over your dissenting vote as a member of the Board, contains language that violates OMA. You asserted that the Public Access Bureau has previously determined that similar language in the Wesley Township Board's public comment rules violated OMA, citing Ill. Att'y Gen. PAC Req. Rev. Ltr. 53822 53830 53873, issued November 7, 2018.

Section 3.5(a) of OMA (5 ILCS 120/ 3.5(a) (West 2016)) provides that "[a] person who believes that a **violation of this Act by a public body has occurred** may file a request for review with the Public Access Counselor established in the Office of the Attorney General[.] * * * The request for review * * * must include a summary of the **facts supporting the allegation.**" (Emphasis added.)

Section 2.06(g) of OMA (5 ILCS 120/ 2.06(g) (West 2016)) provides that "[a]ny person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body." A public body violates section 2.06(g) of OMA when it: (1) prohibits a member of the public from addressing its members in a manner inconsistent with its established and recorded rules, or (2) prohibits a member of the public from providing public comment pursuant to its established and recorded rules but those rules unreasonably restrict that person's right to address public officials. Ill. Att'y Gen. Pub. Acc. Op. No. 14-009, issued September 4, 2014, at 5-7.

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Your Request for Review asked this office to evaluate the propriety of the Board's public comment rules absent a specific complaint that the Board enforced those rules to improperly prevent a member of the public from addressing public officials at a meeting. In contrast, the determination you referenced regarding the Wesley Township Board examined specific instances in which particular members of the public were restricted from addressing the members of that public body during a particular meeting. Because your Request for Review did not allege that any member of the public was improperly prohibited from addressing the Board, you have not provided facts supporting the allegation that the Board violated section 2.06(g) of OMA. Accordingly, this office will take no further action in this matter.

Nonetheless, this office is also charged with providing advice and education to both the public and public officials. *See* 15 ILCS 205/7 (West 2016). In that capacity, this office notes that "the primary purpose of adopting rules governing public comment pursuant to section 2.06(g) of OMA is to accommodate the speaker's statutory right to address the public body, while ensuring that the public body can maintain order and decorum at public meetings." Ill. Att'y Gen. Pub. Acc. Op. No. 14-012, issued September 30, 2014, at 6. As such, this office has previously determined that the right to public comment includes the right to address individual members of a public body. *See* Ill. Att'y Gen. PAC Req. Rev. Ltr. 50824, issued July 10, 2018, at 5-6. This office therefore suggests that the Board review and revise its rule requiring members of the public to direct comments to the presiding officer, unless specifically permitted to address other Board members or officers, to ensure that it upholds the public's right to address all public officials.

This letter closes this file. Please contact me at (312) 814-8413 or the Chicago address listed on the first page of this letter if you have questions.

Very truly yours,



JOSHUA M. JONES
Deputy Bureau Chief
Public Access Bureau

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cc: *Via electronic mail*
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