



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

June 26, 2025



RE: OMA Request for Review – 2025 PAC 87334

Dear [REDACTED]:

This office has received your Request for Review alleging that the Office of Mines & Minerals of the Illinois Department of Natural Resources (Department) violated the Open Meetings Act (5 ILCS 120/1 *et seq.* (West 2024)). Specifically, you alleged the Office of Mines & Minerals violated section 2.05 of OMA¹ by prohibiting members of the public from recording a public hearing concerning a permit application for a coal mine.

The requirements of OMA apply to meetings of a public body. OMA defines a "meeting" as:

any gathering, whether in person or by video or audio conference, telephone call, electronic means (such as, without limitation, electronic mail, electronic chat, and instant messaging), or other means of contemporaneous interactive communication, **of a majority of a quorum of the members of a public body** held for the purpose of discussing public business or, for a 5-member public body, a quorum of the members of a public body held for the purpose of discussing public business. 5 ILCS 120/1.02 (West 2024).

¹5 ILCS 120/2.05 (West 2024) ("Subject to the provisions of Section 8-701 of the Code of Civil Procedure, any person may record the proceedings at meetings required to be open by this Act by tape, film or other means. The authority holding the meeting shall prescribe reasonable rules to govern the right to make such recordings.").

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A gathering does not constitute a "meeting" for purposes of OMA when members of a public body do not participate in "examination or weighing of reasons for or against a course of action," an "exchange of facts preliminary to a decision," or an "attempt to reach accord on a specific matter" of public business. *Nabhani v. Coglianesi*, 552 F. Supp. 657, 661 (N.D. Ill. 1982).

The Department held the April 9, 2025, hearing to receive public comment on a permit revision application submitted by Hillsboro Energy, LLC.² The procedures for such a hearing are set forth in section 1773.14 of title 62 of the Administrative Code (62 Ill. Adm. Code § 1773.14 (2025), last amended at 43 Ill. Reg. 12897, effective October 16, 2019). Those provisions require the Department to appoint a hearing officer to conduct an "informal" hearing and to make "[e]very effort * * * to allow all persons who wish to make a statement to do so."³ They do not contemplate a quorum or a majority of a quorum of the members of a public body deliberating on public business.

Your Request for Review does not allege that a quorum or a majority of a quorum of the members of public body, such as a board or a commission of the Department that holds meetings subject to the requirements of OMA, attended the public hearing and deliberated about public business. Rather, the public hearing appears to have been conducted by a hearing officer for the Department to receive information and comments in accordance with the administrative code provisions referenced above. Because those provisions rather than OMA governed the hearing, you have not provided facts supporting the allegation that the Office of Mines & Minerals and/or the Department violated OMA by prohibiting members of the public from recording the meeting. 5 ILCS 120/3.5(a) (West 2024) (requiring a Request for Review to "include a summary of the facts supporting the allegation[]" that a public body violated OMA). Accordingly, this office will take no further action in this matter.

This file is closed. If you have any questions concerning OMA, you may contact me at (312) 814-6756 or steven.silverman@ilag.gov.

Very truly yours,


STEVE SILVERMAN
Deputy Division Chief
Public Access & Opinions Division

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²Public Notice Illinois, [https://www.publicnoticeillinois.com/\(S\(ivi3rpydmixt2pjipgig3yd3\)\)/PDFDocument.aspx?SID=ivi3rpydmixt2pjipgig3yd36018752&FileName=380117.pdf](https://www.publicnoticeillinois.com/(S(ivi3rpydmixt2pjipgig3yd3))/PDFDocument.aspx?SID=ivi3rpydmixt2pjipgig3yd36018752&FileName=380117.pdf) (last visited June 24, 2025).

³62 Ill. Adm. Code § 1773.14(d)(3) (2025), last amended at 43 Ill. Reg. 12897, effective October 16, 2019).