

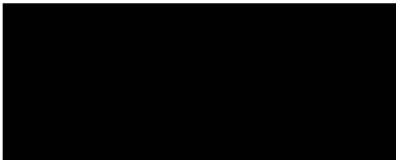


OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

March 18, 2022

Via electronic mail



RE: OMA Request for Review – 2022 PAC 70125

Dear [REDACTED]:

This determination is issued pursuant to section 3.5(b) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(b) (West 2020)). For the reasons explained below, the Public Access Bureau concludes that no further action is warranted in this matter.

Section 3.5(a) of OMA (5 ILCS 120/3.5(a) (West 2020)) provides:

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 not later than 60 days after the alleged violation. * * * The request for review * * * must include a summary of the **facts supporting the allegation**. (Emphasis added.)

On February 25, 2022, this office received your Request for Review stating that the Village of Hillside Board of Trustees (Board) failed to post an agenda to its website at least 48 **business** hours before its February 28, 2022, regular meeting. You allege that failing to do so violated OMA.

"The Open Meetings Act provides that public agencies exist to aid in the conduct of the people's business, and that the intent of the Act is to assure that agency actions be taken openly and that their deliberations be conducted openly." *Gosnell v. Hogan*, 179 Ill. App. 3d 161, 171 (5th Dist. 1989). To that end, section 2.02(a) of OMA (5 ILCS 120/2.02(a) (West 2020)) requires that "an agenda for each regular meeting shall be posted at the principal office of

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the public body and at the location where the meeting is to be held **at least 48 hours in advance of the holding of the meeting**. A public body that has a website that the full-time staff of the public body maintains shall also post on its website the agenda of any regular meetings of the governing body of that public body." (Emphasis added.)

Where the language of a statute is clear and unambiguous, a reviewing body "may not depart from the plain language by reading into the statute exceptions, limitations, or conditions that the legislature did not express." *Hayashi v. Illinois Department of Financial and Professional Regulation*, 2014 IL 116023, ¶16, 25 N.E.3d 570, 576 (2014). "Generally, when the legislature uses certain words in one instance and different words in another, different results are intended. [Citation.] A statute should be construed so that no term is rendered superfluous or meaningless." *Hoffman v. Altamore*, 352 Ill. App. 3d 246, 256 (2d Dist. 2004). "We view the statute as a whole, construing words and phrases in light of other relevant statutory provisions and not in isolation. Each word, clause, and sentence of a statute must be given a reasonable meaning, if possible, and should not be rendered superfluous." *People v. Gutman*, 2011 IL 110338, ¶12, 959 N.E.2d 621, 624 (2011).

An "hour" is defined as "one of the 24 parts of a day." The American Heritage Dictionary, 625 (2d coll. ed 1982). "Business hours" are defined as "[t]hat period or portion of the day during which the business of the community generally is ordinarily transacted." Ballentine's Law Dictionary, (3d ed. 1969). By its plain language, section 2.02(a) of OMA does not require a public body to post an agenda at least 48 "business hours" before a meeting, but rather "at least 48 hours in advance[.]" The OMA elsewhere includes the terms "7 working days" (5 ILCS 120/3.5 (West 2020)), "21 business days" (5 ILCS 120/3.5(e) (West 2020)), and "6 business days" (5 ILCS 120/7.3(a) (West 2020)). The inclusion of the modifiers "business" and "working" must be interpreted as an expression of the General Assembly's intent to differentiate these provisions from other provisions in the statute that exclude such modifiers.¹ The General Assembly's use of "48 hours" rather than "48 business hours" must be similarly interpreted. If the General Assembly had intended to require public bodies to post agendas at least "48 business hours" before regular meetings, it would have expressly so stated in section 2.02(a).

You submitted your Request for Review on Friday, February 25, 2022, alleging that the Board failed to post an agenda more than 48 business hours before the Board's regular meeting scheduled for the following Monday, February 28, 2022. Because section 2.02(a) of OMA does not require public bodies to post agendas at least 48 "business hours" before their meetings commence, the facts you have alleged do not support an allegation that the Board

¹See, e.g., 5 ILCS 120/2.03 (West 2020) ("10 days' notice"); 5 ILCS 120/2.06(b) (West 2020) ("30 days after," "10 days after," "60 days after"); 5 ILCS 120/3(a) (West 2020) ("within 60 days"); 5 ILCS 120/3.5(a) (West 2020) ("not later than 60 days after").



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violated OMA. Accordingly, we have determined that no further action is warranted on this matter.

If you have any questions, you may contact me at the Chicago address on the first page of this letter. This letter serves to close this matter.

Very truly yours,


BENJAMIN J. SILVER
Assistant Attorney General
Public Access Bureau

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cc: The Honorable Joseph T. Tamburino
Mayor
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