



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

KWAME RAOUL  
ATTORNEY GENERAL

June 14, 2024

*Via electronic mail*

The Honorable Tiffany A. Henyard  
Mayor  
Village of Dolton  
14122 Martin Luther King Jr. Drive  
Dolton, Illinois 60419  
thenyard@vodolton.org

RE: OMA Request for Review – 2024 PAC 81742

Dear Ms. Henyard:

This determination is issued pursuant to section 3.5(b) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(b) (West 2022)). For the reasons set forth below, the Public Access Bureau has determined that no further action is warranted in this matter.

On June 7, 2024, this office received your Request for Review alleging that four trustees (Trustees) of the Village of Dolton Board of Trustees (Board) violated the requirements of OMA during the Board's April 8, 2024, special meeting by voting to appoint Ms. Lori Lightfoot as "special investigator" in the absence of an agenda item for appointing her to that role.<sup>1</sup> You, the Mayor of Dolton, explain that this meeting was called by the Trustees (a quorum of the Board), and that you and the two other trustees did not attend. The relevant agenda items read:

B. Discussion and Approval of the appointment of Lori E. Lightfoot as Additional Legislative Counsel per RESOLUTION NO. 24-006.

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<sup>1</sup>Letter from Tiffany A. Henyard to Public Access Counselor, Office of the Attorney General (June 7, 2024), at [1].

C. Discussion and Approval to approve retainer agreement with  
Lori E. Lightfoot as Additional Legislative Counsel per  
RESOLUTION NO. 24-007.<sup>[2]</sup>

You allege that after the Trustees and their legislative counsel were informed that appointing Ms. Lightfoot as "Additional Legislative Counsel" would violate the Village Code, the Trustees "attempted to amend the agenda item"<sup>3</sup> during the special meeting by motioning to appoint Ms. Lightfoot as "special investigator."<sup>4</sup> You contend that "[b]y amending the special meeting agenda to appoint Lightfoot to a position that does not exist in either the Illinois Municipal Code or the Village Code, the Trustee[s] violated" section 2.02 of OMA,<sup>5</sup> which, you claim, "provides that action taken on special meeting agendas must be germane to the item on the agenda."<sup>6</sup> The sentence you reference is found in section 2.02(a) of OMA;<sup>7</sup> it provides, in relevant part:



Public notice of any special meeting \* \* \* shall be given at least 48 hours before such meeting, which notice shall also include the agenda for the special \* \* \* meeting, but the validity of any action taken by the public body which is germane to a subject on the agenda shall not be affected by other errors or omissions in the agenda.

In making your argument, you compare and contrast the cases *Argo High School Council of Local 571 v. Argo Community High School District*, 163 Ill. App. 3d 578 (1987) and *People ex rel. Redell v. Giglio*, 238 Ill. App. 3d 141 (1992). You further claim:

By specifying the position to which they were considering appointing Lightfoot, the Trustees tied their own hands and they could **only** appoint Lightfoot as legislative counsel. The agenda, as

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<sup>2</sup>Village of Dolton Board of Trustees, Agenda Items 5.B. and 5.C. (April 8, 2024).

<sup>3</sup>It is clear from the video recording of the meeting you provided that the Board amended the *motions* to appoint and retain Ms. Lightfoot, not the agenda items. Reality Check TV Chicago,  *DOLTON BOARD MEETING LIVE*  4/8/24, YouTube, at 39:10 (livestreamed April 8, 2024), <https://www.youtube.com/watch?v=9c-GC5oAeW4>.

<sup>4</sup>Letter from Tiffany A. Henyard to Public Access Counselor, Office of the Attorney General (June 7, 2024), at [1].

<sup>5</sup>5 ILCS 120/2.02 (West 2022).

<sup>6</sup>Letter from Tiffany A. Henyard to Public Access Counselor, Office of the Attorney General (June 7, 2024), at [2].

<sup>7</sup>5 ILCS 120/2.02(a) (West 2022).

posted, did not inform the public that Lightfoot would be appointed as "special investigator." It simply said she would be appointed as "additional legislative counsel." However, the legislative counsel ordinance does not even authorize said counsel to perform any sort of investigations. \* \* \* Had the Trustees done their due diligence, they would have realized that they should have just cancelled and recalled the meeting on another date with the correct agenda item.

The differences in the legislative counsel and "special investigator," which does not even exist in the Village Code, positions are stark, particularly since legislative counsel has no investigative authority. The agenda items, as posted, are clearly not germane to the action taken. As such, the actions taken should be voided, and the Trustees should make an appointment that complies with the Act, as well as the Illinois Municipal Code and the Village Code. (Emphasis in original.)<sup>[8]</sup>

You enclosed a copy of the legislative counsel ordinance<sup>9</sup> and a link to a video recording of the meeting.<sup>10</sup>

As a threshold matter, section 3.5(a) of OMA<sup>11</sup> 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 not later than 60 days after the alleged violation." (Emphasis added.) Accordingly, a Request for Review of an alleged OMA violation is properly lodged against the public body as a whole, rather than individual members. Your Request for Review thus alleges that the Board violated OMA.

Additionally, the Public Access Counselor's authority to resolve disputes is limited to alleged violations of OMA and the Freedom of Information Act (5 ILCS 140/1 *et seq.* (West 2022)). *See* 15 ILCS 205/7(c)(3) (West 2022). Therefore, your allegations about the Village Code and Illinois Municipal Code are not subject to review by this office.

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<sup>8</sup>Letter from Tiffany A. Henyard to Public Access Counselor, Office of the Attorney General (June 7, 2024), at [2].

<sup>9</sup>Village of Dolton Ordinance No. 21-009 (approved September 2, 2021).

<sup>10</sup>Reality Check TV Chicago,  *DOLTON BOARD MEETING LIVE*  4/8/24, YouTube (livestreamed April 8, 2024), <https://www.youtube.com/watch?v=9c-GC5oAeW4>.

<sup>11</sup>5 ILCS 120/3.5(a) (West 2022).

Turning to your allegation that the Board violated OMA by taking final action that was not germane to the items listed on the April 8, 2024, meeting agenda, the current version of OMA provides "[a]ny agenda required under this Section shall set forth the general subject matter of any resolution or ordinance that will be the subject of final action at the meeting." 5 ILCS 120/2.02(c) (West 2022). *Argo*, the 1987 case you cited, was decided long before section 2.02(c) was added to OMA. In construing a prior version of section 2.02(a) of OMA,<sup>12</sup> the court noted that "'germane' is defined as 'in close relationship, appropriate, relative, pertinent[.]'" and that "[c]ourts have expanded the meaning of the word even further, holding that where the title of an act is general, anything germane to the subject matter passes the constitutional prohibition against special legislation." *Argo*, 163 Ill. App. 3d at 582 (quoting Black's Law Dictionary 618 (5th ed. 1979)). The court concluded that a school board's final actions to extend the superintendent's contract, change department chairperson appointments from permanent to rotational, and solicit applications for the athletic director position were germane to the agenda item "review and discussion of salaries involving administrators, supervisors, and other personnel not covered by an agreement[.]" because "[d]iscussions of who can authorize salary increases (the rotation system), who will receive a salary, and the length of the superintendent's contract are 'closely related' and 'pertinent' to a discussion of salaries of personnel not covered by agreements." *Argo*, 163 Ill. App. 3d at 582. Accordingly, the court affirmed the lower court's dismissal of a complaint seeking to invalidate the school board's final actions. *Argo*, 163 Ill. App. 3d at 583.

Even if germaneness was still the applicable standard for providing advance notice of final action, the action taken by the Board on April 8, 2024, to appoint Ms. Lightfoot as "special investigator" was clearly closely related and pertinent to the agenda items about appointing her as "Additional Legislative Counsel," as those two terms are just different phrasings of the role the Board was hiring Ms. Lightfoot to perform. As of April 5, 2024, it was widely reported and well understood that the Board majority sought to hire Ms. Lightfoot to investigate the Village administration.<sup>13</sup>

Your argument that the wording of the Board's April 8, 2024, agenda items meant that the Board "could **only** appoint Lightfoot as legislative counsel" construes the term "germane" in section 2.02(a) of OMA as interchangeable with "identical[.]" The agenda item that the court found insufficient in *Giglio*—"and all other matters pertaining to the function of the Township"—is starkly distinguishable from the specified subject matter of the Board's April 8, 2024, agenda items in that the catch-all agenda item in *Giglio* was so overgeneralized that it "in essence, amounted to no agenda at all." *Giglio*, 238 Ill. App. 3d at 146. Because Ms. Lightfoot's precise title was not necessary for the agenda items to be germane to Board's action

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<sup>12</sup>Ill. Rev. Stat. 1985, ch. 102, par. 42.02.

<sup>13</sup>Ben Bradley, *Trustees ask Lightfoot to investigate Dolton mayor*, WGN-TV (updated April 5, 2024, 4:11 p.m.), <https://wgntv.com/news/wgn-investigates/trustees-ask-lightfoot-to-investigate-dolton-mayor/>.

to hire her as a legal advisor for the Trustees, section 2.02(a) of OMA does not provide a basis for invalidating the Board's action to appoint Ms. Lightfoot as "special investigator."

Although not mentioned in your Request for Review, section 2.02(c) of OMA, which was adopted effective January 1, 2013, by Public Act 97-827, actually sets forth a higher standard for advance notice than mere germaneness. The Board's April 8, 2024, agenda items similarly satisfy that standard. As discussed above, section 2.02(c) of OMA provides that "[a]ny agenda required under this Section shall set forth the general subject matter of any resolution or ordinance that will be the subject of final action at the meeting." OMA does not contain a definition of "general subject matter," but the Senate debate on the underlying bill indicates that the General Assembly intended this provision to ensure that agendas provide general notice of all matters upon which a public body would be taking final action:

[T]here was just no real requirement as to how specific they needed to be to the public of what they were going to discuss that would be final action. And this just says that you have to have a \* \* \* general notice, if you're going to have and take final action, as to generally what's going to be discussed so that – that people who follow their units of local government know what they're going to be acting upon. Remarks of Sen. Dillard, May 16, 2012, Senate Debate on House Bill No. 4687, at 47.

The Public Access Bureau has determined that "the General Assembly's use of the term 'general subject matter' signifies that a meeting agenda must set forth the main element(s), rather than the specific details, of an item on which the public body intends to take final action." Ill. Att'y Gen. PAC Req. Rev. Ltr. 45667, issued February 16, 2017, at 4-5 (determining that voting to sign a new city administrator to a five-year contract under the agenda item "Appointment of the City Administrator" did not violate section 2.02(c) of OMA).

The Board's April 8, 2024, agenda items pertaining to Ms. Lightfoot set forth the general subject matter of the Board's votes to retain her as a legal advisor to assist the Trustees. The general subject matter of the Board's actions was appointing and retaining her in that capacity. Although you argue that the agenda items were insufficient because the Village Code provided for neither an "Additional Legislative Counsel" nor a "special investigator," the absence of such pre-existing positions at the time the agenda was created reflects that the agenda did not give a false impression of the action the Board ended up taking, because the Board was creating a new role; it is not as though the motion during the meeting switched the appointment from one clearly-defined position to a different one. Moreover, even if "Additional Legislative Counsel" could be considered to specifically reference the ordinance you furnished for this office's review, the powers of legislative counsel are broad, and include serving as "legal advisor to the Village Board and Village and counsel on matters relating to their legislative duties[.]"<sup>14</sup> It is not

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<sup>14</sup>Village of Dolton Ordinance No. 21-009 (approved September 2, 2021).

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apparent to this office why an attorney retained as a legal advisor would be prohibited from conducting investigations if directed to do so by the Board. *See Sandra T.E. v. South Berwyn School District 100*, 600 F.3d 612, 619 (7th Cir. 2009) (because attorneys acted as legal advisors in conducting internal investigation of school district, communications related to the investigation were protected by the attorney-client privilege). The April 8, 2024, agenda indicated that the Board would consider appointing Ms. Lightfoot to provide legal services and entering into a retainer agreement for those services. Section 2.02(c) did not require the Board's agenda to define her prospective title with precision on the agenda. Therefore, the Public Access Bureau concludes that the Board did not violate OMA by voting to appoint Ms. Lightfoot as "special investigator" on April 8, 2024.

This letter serves to close this file. If you have questions, please contact me at [joshua.jones@ilag.gov](mailto:joshua.jones@ilag.gov).

Very truly yours,



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Deputy Bureau Chief  
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