

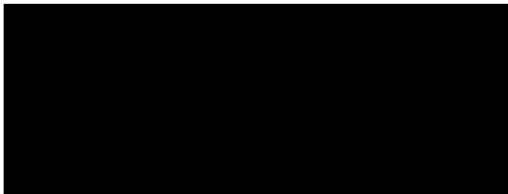


OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

April 7, 2022

Via electronic mail



RE: OMA Request for Review – 2022 PAC 70648

Dear 

This determination is issued pursuant to section 3.5(b) of the Open Meetings Act (OMA).¹ For the reasons explained below, this office will take no further action in this matter.

On March 18, 2022, on behalf of the Firemen's Annuity and Benefit Fund of Chicago (Fund), you submitted a Request for Review to the Public Access Bureau alleging that a former member of the Fund's Retirement Board (Board) may have violated section 2.06(e) of OMA.² Your submission to this office included a copy of a letter that the Board sent to the former Board member. In that letter, the Board stated that it had discovered that the former Board member published a post on his personal blog, without the permission of the Board, which included portions of a confidential audio recording from the Board's March 15, 2017, closed session meeting, which the former Board member had attended as a trustee of the Board at that time. The Board informed the former Board member that his actions, among other things, violated section 2.06(e) of OMA, stating:

While it is unknown how you accessed the confidential audio recording, it is undisputed that you were in possession of the

¹5 ILCS 120/3.5(b) (West 2020).

²5 ILCS 120/2.06(e) (West 2020), as amended by Public Act 102-653, effective January 1, 2022.

April 7, 2022

Page 2


confidential audio recording of the March 15, 2017 executive session meeting and that such recording was removed from the Fund's office without approval by the Board (or by court order) for utilization in your January 2022 Blog Post.^[3]

Section 3.5(a) of OMA⁴ 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.) Additionally, the authority of the Public Access Counselor is limited to reviewing potential violations of OMA and the Freedom of Information Act (5 ILCS 140/1 *et seq.* (West 2020)).⁵

In this circumstance, the Board contends that a former Board member improperly removed the closed session verbatim recordings from the Fund's main office or official storage location without the authorization or involvement of the Board. This action is not attributable to the Board. Because your Request for Review does not allege a violation of OMA by the Board or any other public body, this office does not have authority to review your allegation.

Therefore, this office has determined that no further action is warranted in this matter. This file is closed. If you have any questions, my e-mail address is Shannon.Barnaby@ilag.gov.

Very truly yours,


SHANNON BARNABY
Assistant Attorney General
Public Access Bureau

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³Letter from The Retirement Board, Firemen's Annuity and Benefit Fund of Chicago, to Timothy McPhillips (February 11, 2022).

⁴5 ILCS 120/3.5(a) (West 2020).

⁵15 ILCS 205/7(c)(3) (West 2020).