



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

June 10, 2019

Via electronic mail

The Honorable Alyssia Benford
DuPage Township Trustee
abenford@dupagetownship.com

RE: OMA Request for Review – 2019 PAC 58320

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, submitted May 29, 2019, you stated that Trustee Maripat Oliver attended the May 21, 2019, meeting of the DuPage Township Board of Trustees (Board) but that she "willful[ly] depart[ed] the meeting temporarily to prevent the public from addressing her during the public comments."¹ Your Request for Review alleges that Trustee Oliver's deliberate departure from the meeting room during the public comment period violated section 2.06(g) of OMA (5 ILCS 120/2.06(g) (West 2016)), because several residents who wished to address Trustee Oliver specifically during their public comments were not able to do so.

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 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

¹OMA Request for Review from Alyssia Benford, DuPage Township Trustee (May 29, 2019).

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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.

The requirements of OMA apply to "public bodies" as defined in section 2(a) of OMA (5 ILCS 120/2(a) (West 2016)). Thus, although the meaning of "public officials" in section 2.06 of OMA is not specifically defined, the intention of that section appears to be to allow the public to address the public body as a whole while it is gathered in open session, subject to reasonable rules. Your Request for Review does not allege that individuals were precluded from "address[ing] public officials" at the May 21, 2019, meeting, only that Trustee Oliver was not present. In this instance, the absence of one trustee during public comment² is insufficient to conclude that the Board violated section 2.06(g) of OMA. Although the Public Access Bureau has previously concluded that a public body violates section 2.06(g) when it prohibits a speaker from directing his or her comments to an individual member of the public body (Ill. Att'y Gen. PAC Req. Rev. Ltr. 50824, issued July 10, 2018), that matter concerned the public body's attempt to regulate the content of public speech. Section 2.06(g) cannot be read to compel the physical presence of a public official at a specific meeting, or during the public comment portion of a meeting, because a member of the public wishes to direct his or her comments to that official.

Because your Request for Review did not allege that any member of the public was improperly prohibited from addressing the Board as a whole, you have not provided facts supporting the allegation that the Board violated section 2.06(g) of OMA at its May 21, 2019, meeting. Accordingly, this office will take no further action in this matter. If you have any questions, you may contact me at (312) 814-6437 or the Chicago address listed on the first page of this letter.

Very truly yours,



LEAH BARTELT
Assistant Attorney General
Public Access Bureau

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²This determination does not conclude that it is appropriate for an elected official to purposefully leave a meeting to avoid listening to public comment, only that the facts as alleged here are insufficient to support an allegation of a violation of 2.06(g) of OMA by the Board.

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cc: The Honorable Felix George
Supervisor, DuPage Township
241 Canterbury Lane
Bolingbrook, Illinois 60440