

Tammy Wendt (Board of Review)

From: AMY CRAWFORD (States Attorney)
Sent: Wednesday, March 31, 2021 10:45 PM
To: Tammy Wendt (Board of Review)
Cc: CATHYMCNEIL STEIN (States Attorney)
Subject: Re: greetings

Commissioner Wendt,

Chief Stein asked that I respond to your inquiry. The short answer to your question is yes. The Board of Review is a "public body" for purposes of the Open Meetings Act ("OMA"), 5 ILCS 120/1.02, *et seq.* A "meeting," for purposes of triggering OMA requirements, "means 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...." "All meetings of public bodies shall be open to the public" unless a meeting is covered by an exception to OMA.

Your question goes to what it means to "discuss public business." Although the term "public business" is not defined in OMA, case law indicates that OMA's provisions are to be construed in favor of openness. We are unaware of any case law that would support an interpretation that OMA only applies to certain "core" decisions of the public body, but not to discussions and decisions about the body's policies. Moreover, whether a gathering of Board of Review members is formal or informal is irrelevant to the OMA analysis. See *People ex rel. Difanis v. Barr*, 83 Ill. 2d 191 (1980). In *Difanis*, the Illinois Supreme Court affirmed a judgment against a group of nine city councilmembers (on a council of 15 members) who met privately at a member's house prior to a council meeting. Although the lawmakers argued that the meeting was a political gathering, the court rejected that argument because the members also discussed items on the agenda for that night's council meeting. *Id.* at 202. The court noted that the General Assembly had amended OMA to delete the word "official" before the word "meeting," thus putting unofficial or informal meetings within the coverage of OMA. *Id.* at 200.

Although one might question how much the public is impacted by changes in Board of Review internal policies, we are not aware of any exceptions within OMA that would shield policy deliberations from the same requirement of openness that applies to any other discussion of Board of Review business. As such, meetings to discuss Board of Review policy should be treated as subject to OMA.

Feel free to let me know if you have additional questions or would like to discuss.

Thanks,
Amy

Amy Crawford
Deputy Chief, Civil Actions Bureau
Cook County State's Attorney's Office
500 Richard J. Daley Center
Chicago, IL 60602



***Board of Review
Basic Course
1-BR 001-035***

RE: [Thielmann] FOIA request

1 message

REV.FOIA <REV.FOIA@illinois.gov>

Wed, Nov 3, 2021 at 10:08 AM

To: "toddthielmann@gmail.com" <toddthielmann@gmail.com>

Mr. Thielmann,

Our records indicate the following:

Michael Cabonargi completed the 1-BR exam 3/8/11

Larry Rogers, Jr. completed the 1-BR exam 12/2/05

Tammy Wendt has not taken the 1-BR exam

Thank you,

Abbie Rennolds

Freedom of Information Officer

Illinois Department of Revenue

[101 W. Jefferson St.](#) MC 6-595

Springfield, IL 62702

217.782.0985

From: Todd Thielmann <toddthielmann@gmail.com>**Sent:** Tuesday, November 2, 2021 11:51 AM**To:** REV.FOIA <REV.FOIA@Illinois.gov>**Subject:** [External] Re: [Thielmann] FOIA request

Hello,

I understand the denial based on the exemption clause. Please verify whether the 3 Cook County Board of Review Commissioners- Michael Cabonargi, Larry Rogers Jr. and Tammy Wendt have completed the 1-BR basic course.

Thank you,

Todd Thielmann

On Tue, Nov 2, 2021 at 11:24 AM REV.FOIA <REV.FOIA@illinois.gov> wrote:

Mr. Thielmann,

The Illinois Department of Revenue (IDOR) does not provide transcripts pursuant to a FOIA request. Transcripts are exempt pursuant to section 7(1)(c) of FOIA (5 ILCS 140/7(1)(c)), as highly personal information. The disclosure of a list of classes taken or withdrawn from, and grades received would be an “[u]nwarranted invasion of personal privacy.” See 2010 PAC 6398 (Ill. Att’y Gen. PAC Pre-Auth. al6398, issued June 24, 2010).

If you are seeking to verify whether IDOR has a record of the individuals completing the 1-BR Basic Course, for example, we are able to provide that information. Please advise.

To the extent you consider this response to be a denial of your FOIA request, you have the right to submit a request for review by the Public Access Counselor (the “PAC”) in the Office of the Illinois Attorney General to:

Public Access Counselor

Office of the Attorney General

500 S. 2nd St.

Springfield, IL 62706

Fax: 217-782-1396

E-mail: publicaccess@atg.state.il.us

If you choose to submit a request for review to the PAC, you must do so within 60 days after the date of this letter. Your request for review must be in writing, signed by you, and include a copy of your FOIA request and this response (5 ILCS 140/9.5(a)). You also have the right to seek judicial review of this response (See 5 ILCS 140/11(a),(b)).

Thank you,

Abbie Rennolds

Freedom of Information Officer

Illinois Department of Revenue

101 W. Jefferson St. MC 6-595

Springfield, IL 62702

217.782.0985

From: Todd Thielmann <toddthielmann@gmail.com>

Sent: Monday, November 1, 2021 3:59 PM

To: REV.FOIA <REV.FOIA@illinois.gov>

Subject: [External] FOIA request

Please see attached FOIA request.

Thank you,

Todd Thielmann

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OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

April 4, 2022

Via electronic mail

Mr. Todd Thielmann
Certified Illinois Assessing Officer
First Assistant/Chief of Staff – Commissioner Tammy Wendt
Cook County Board of Review
118 North Clark Street, Room 601
Chicago, Illinois 60602
Todd.Thielmann@cookcountyil.gov

The Honorable Larry Rogers, Jr.
Chairman
Cook County Board of Review
118 North Clark Street
Chicago, Illinois 60602

RE: OMA Request for Review – 2022 PAC 69742

Dear Mr. Thielmann and Chairman Rogers:

This determination is issued pursuant to section 3.5(e) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(e) (West 2020)). For the reasons that follow, the Public Access Bureau concludes that the Cook County Board of Review (Board) violated the requirements of OMA.

On February 3, 2022, Mr. Todd Thielmann submitted this Request for Review alleging that the Board had failed to adhere to the training requirements under section 1.05 of OMA (5 ILCS 120/1.05 (West 2020), as amended by Public Act 102-558, effective August 20, 2021). In his Request for Review, Mr. Thielmann identified himself as the First Assistant/Chief of Staff to Board Commissioner Tammy Wendt.

On February 16, 2022, this office sent a copy of the Request for Review to the Board and requested that it provide a detailed response to the allegations in the Request for Review, together with copies of the most recent certificates of completion for members of the Board and the Board's OMA designee. Later that same day, Mr. Thielmann forwarded a copy of

Mr. Todd Thielmann
The Honorable Larry Rogers, Jr.
April 4, 2022
Page 2

the Request for Review to, whom he alleged to be, Board Chairman Larry Rogers' attorney.¹ Having received no response, on March 17, 2022, this office again sent a copy of the Request for Review to the Board and requested the same materials. As of the date of this determination, this office has not received a response from the Board.

DETERMINATION

As an initial matter, section 3.5(b) of OMA (5 ILCS 120/3.5(b) (West 2020)) unambiguously provides that "[w]ithin 7 working days after receipt of the request for review, the public body **shall provide copies of the records requested and shall otherwise fully cooperate with the Public Access Counselor.**" (Emphasis added.) The Board's failure to respond to this office has hampered our ability to review Mr. Thiemann's allegation.

OMA Training

Section 1.05(b) of OMA (5 ILCS 120/1.05(b) (West 2020), as amended by Public Act 102-558, effective August 20, 2021) provides the requirements for members of public bodies to complete the electronic training program developed by the Public Access Counselor:

Except as otherwise provided in this Section, each elected or appointed member of a public body subject to this Act who becomes such a member after January 1, 2012 (the effective date of Public Act 97-504) shall successfully complete the electronic training curriculum developed and administered by the Public Access Counselor. For these members, the training must be completed **not later than the 90th day after** the date the member:

- (1) takes the oath of office, if the member is required to take an oath of office to assume the person's duties as a member of the public body; or
- (2) otherwise assumes responsibilities as a member of the public body, if the member is not required to take an oath of office to assume the person's duties as a member of the governmental body.

¹E-mail from Todd (Thielmann) to "kkrafthefer@ancelglink.com" (February 16, 2022).

Each member successfully completing the electronic training curriculum shall file a copy of the certificate of completion with the public body.

* * *

The failure of one or more members of a public body to complete the training required by this Section does not affect the validity of an action taken by the public body.

An elected or appointed member of a public body subject to this Act who has successfully completed the training required under this subsection (b) and filed a copy of the certificate of completion with the public body is not required to subsequently complete the training required under this subsection (b). (Emphasis added.)

The Board has failed to respond to this office's letters of further inquiry or otherwise provide information to assist in our review of these allegations. A review of the Board's website reflects that the Board is comprised of three individuals: Commissioner Larry R. Rogers, Jr., Commissioner Michael Cabonargi, and Commissioner Tammy Wendt.² However, it is unclear on what date each of the commissioners took their oath of office or otherwise assumed their duties as commissioners. Based on our review of electoral data that is publicly available from the Cook County Clerk's Office,³ it appears that Commissioners Rogers and Cabonargi were last elected to the Board in November 2018, and that Commissioner Wendt was last elected to the Board in November 2020. Therefore, at the time Mr. Thielmann submitted this Request for Review, more than 90 days had passed from the time at which each of the commissioners would have taken their oath of office or otherwise assumed their responsibilities on the Board.

Further, as noted above in section 1.05 of OMA, the Public Access Counselor is tasked with developing and administering an annual online OMA training curriculum for designated employees, officers, and public body members. Although the Public Access Bureau does not solicit or retain certificates of completion for such members, this office maintains an internal database that catalogs past registrants by name and public body for registrants who started and/or completed the training curriculum prior to March 1, 2021. Because the Board has failed to furnish us with copies of the certificates of completion reflecting that all members of the

²<https://www.cookcountyboardofreview.com/commissioners>.

³Cook County Clerk's Office, Directory of Elected Officials, *available at* <https://www.cookcountyclerkil.gov/elections/directory-elected-officials> (last visited March 30, 2022).

Mr. Todd Thielmann
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Board have successfully and timely completed the OMA electronic training, this office conducted individual searches of that database using the last names of each of the three commissioners and a separate general search using "Cook County Board of Review". However, those searches did not identify any of the three commissioners as having registered or taken the online OMA training provided by this office prior to March 1, 2021. Accordingly, based on the available information, it appears that the Board has not complied with the requirements of section 1.05(b) of OMA.

This office directs each commissioner, to the extent they have not already done so, to register for and successfully complete the Public Access Counselor's electronic training curriculum and file a copy of their certificate of completion with the Board. Because the plain language of section 1.05(b) provides that any violation of the training requirements does not invalidate any action taken by the Board, no further remedy is necessary. However, this office cautions the Board to comply with all of the training requirements of OMA in the future.

The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. If you have questions, you may contact me at Christopher.Boggs@ilag.gov or (217) 785-7438. This letter serves to close this file.

Very truly yours,

Christopher R. Boggs

CHRISTOPHER R. BOGGS
Supervising Attorney
Public Access Bureau

69742 o 105 training incomplete co

Todd Thielmann (Board of Review)

From: Tammy Wendt (Board of Review)
Sent: Thursday, April 22, 2021 12:06 PM
To: Todd Thielmann (Board of Review)
Subject: FW: Fwd:

Follow Up Flag: Follow up
Flag Status: Completed

??

From: Michelle Mussman <staterepmussman@gmail.com>
Sent: Thursday, April 22, 2021 11:52 AM
To: Tammy Wendt (Board of Review) <Tammy.Wendt@cookcountyil.gov>
Subject: Fwd:

External Message Disclaimer

This message originated from an external source. Please use proper judgment and caution when opening attachments, clicking links, or responding to this email.

Hi there,

Just wanted to see if you are aware of this bill and could advise if there is a reason in particular to support or oppose.

Thanks!
Michelle

Cook County Township Assessors Association

Officers

President Ali ElSaffar, Oak Park Township

Vice President Fran Sitkiewicz, Riverside Twp.

Treasurer Tom Smogolski, Hanover Twp.

Secretary Nora Gomez, Bloom Township

Directors

Al J. Biancalana, Leyden Township

Connie Carosielli, Elk Grove Township

Patricia Damisch, Northfield Township

Cassandra Elston, Thornton Township

Rich Kelly, Orland Township

Susan M. Krey, Maine Township

April 21, 2021

Representative Michelle Mussman

District 56

Springfield, Illinois 62706

Dear Representative Mussman,

The board of the Cook County Township Assessors Association opposes Amendment 1 to House Bill 1356 and urges you to oppose it too.

Under the bill, only "an attorney licensed to practice law in Illinois" would be eligible to serve as a Cook County Board of Review Commissioner. This requirement would be unique among Illinois assessment officials, as it is not necessary to be a lawyer to serve as a Township Assessor, County Assessor, Supervisor of Assessment, Property Tax Appeal Board member or Board of Review Commissioner outside of Cook County.

I am President of the Cook County Township Assessors Association, a non-partisan organization that consists of all elected township assessors in suburban Cook County. The organization's membership consists of Democrats, Republicans, and independents, but we are all committed to ensuring the fair and efficient administration of the property tax system. To achieve this goal, we have long worked closely with commissioners of the Cook County Board of Review, and have seen that both lawyers and non-lawyers can be effective commissioners.

Board of Review commissioners take an oath to “procure a full, fair and impartial assessment of all property,” (35 ILCS 200/5-10) and the experience and education associated with a law degree can be helpful in fulfilling this oath. But lawyers do not have a monopoly on the skills needed to serve on the Board of Review. Licensed appraisers, township assessors and real estate brokers also have relevant experience and education, and should not be barred from serving on the board.

I myself am an attorney, but I oppose restricting Board of Review eligibility to lawyers because I know that graduating from law school does not provide the experience needed to serve on the Board of Review. When I decided to run for Township Assessor, I had to take a series of classes to become a Certified Illinois Assessing Officer. Many of those classes are more relevant to the job of Township Assessor than the classes I took in law school.

House Bill 1356 would be detrimental to the Cook County tax system because it would bar many qualified professionals from running for the Board of Review. We urge you to oppose the bill.

Sincerely,

Ali ElSaffar, Association President



BOARD OF REVIEW

COMMISSIONER LARRY ROGERS, JR
COMMISSIONER TAMMY WENDT
COMMISSIONER MICHAEL CABONARGI

From: Hon. Larry Rogers, Jr., Commissioner, Cook County Board of Review (M: (312) 952-1556)
Hon. Michael Cabonargi, Commissioner, Cook County Board of Review (M: (773) 590-4232)

For the following reasons, **we support the below amendment** and respectfully request the Illinois Property Tax Code be amended to further professionalize the Cook County Board of Review by adding the requirement that a Commissioner be a licensed attorney.

10200HB1356ham001

LRB102 03372 HLH 24818 a

1 AMENDMENT TO HOUSE BILL 1356
2 AMENDMENT NO. _____. Amend House Bill 1356 by replacing
3 everything after the enacting clause with the following:
4 "Section 5. The Property Tax Code is amended by adding
5 Section 6-7 as follows:
6 (35 ILCS 200/6-7 new)
7 Sec. 6-7. Board of review; counties with 3,000,000 or more
8 inhabitants. Notwithstanding any other provision of law,
9 beginning with the first vacancy to occur on or after the
10 effective date of this amendatory Act of the 102nd General
11 Assembly, in addition to any other requirements set forth by
12 law, each member of the board of review in a county with
13 3,000,000 or more inhabitants must be an attorney licensed to
14 practice law in Illinois. This Section is a denial and
15 limitation of home rule powers and functions in accordance
16 with subsection (i) of Section 6 of Article VII of the Illinois

10200HB1356ham001

- 2 -

LRB102 03372 HLH 24818 a

1 Constitution. A home rule unit may not regulate its board of
2 review in a manner that is inconsistent with this Section."

Analysis

The Cook County Board of Review is a quasi-judicial body, consisting of three co-equal elected commissioners, which sits as an appellate tribunal with the power to review, confirm, revise, change, correct, alter or modify valuations made by the Cook County Assessor. The powers, duties, role, and function of the Cook County Board of Review are governed and defined by the Illinois Property Tax Code. 35 ILCS 200/5-5; 5-10; 6-55; 14-10; 16-95(1); 16-95(2); 16-100; 16-110; 16-140; 16-145; 16-150; *Parker v.*

Kirkland, 298 Ill.App. 340, 347-352 (1939); *People ex rel. Wangelin v. City of St. Louis*, 367 Ill. 57, 66 (1937).

The courts have stated clearly the Cook County Board of Review is quasi-judicial. *Capra v. Cook County Board of Review*, 733 F.3d 705, 710 (7th Cir. 2013)(Cook County Board of Review functions as a quasi-judicial adjudicatory body); *Jarman v. Board of Review*, 345 Ill. 248, 253 178 N.E. 91 (1931) (the rule is established that if the officers acting are invested by the legislative with power to decide on the property rights of others they act judicially in making their decision; actions taken by board of review in reviewing an assessment "obviously" judicial in nature); *Goodfriend v Board of Appeals*, 18 Ill.App.3d 412, 418 305 N.E.2d 404 (1973) (Cook County Board of Appeals (n/k/a Board of Review) is vested with the power to decide the property rights of others, a power which when exercised makes their official actions judicial); *Parker v. Kirkland*, 298 Ill.App. 340, 347-350, 351-353, 358-359 (1939); *McKeown v. Moore*, 303 Ill. 448, 453 (1922). In adjudicating assessment appeals and classifications, the Board of Review is "acting judicially." *C & K Distributors v. Hynes*, 122 Ill.App.3d 525, 529-530 (1984); *People ex rel. Korzan v. Fulton Market Cold Storage Co.*, 62 Ill.2d 443, 448 (1976)).

Similarly, the courts have established the filing of a complaint, submission of evidence and argument before the Cook County Board of Review is the practice of law. As a consequence, the courts hold the Board is a "tribunal" and practice before it is strictly limited to pro se taxpayers and appellants represented by licensed attorneys. *In re Yamaguchi*, 118 Ill.2d 417, 426 (1987); *Chicago Bar Association v. Friedlander*, 24 Ill.App.2d 130, 136-137 (1960); Opinion No. 1800, Office of the Cook County State's Attorney, August 23, 1983; Opinion Letter of Cook County State's Attorney, August 24, 1999.

However, as currently written, the law does not require that a Cook County Board of Review Commissioner be a licensed attorney. Rather, the Illinois Property Tax Code merely requires only that a Commissioner pass a basic course in assessment practice offered by the Illinois Department of Revenue within their first year in office. 35 ILCS 200/6-10 ("In counties with 3,000,000 or more inhabitants, the members of the board of review shall successfully complete a basic course in assessment practice, approved by the Department, within one year after taking office.").

This amendment acknowledges that as the courts have held a person must be a licensed attorney to represent a party before the Cook County Board of Review - because practice before the Board is the practice of law - then the Commissioners of the Cook County Board of Review themselves should be attorneys.

Further, this amendment would improve the ethical safeguards of the Cook County Board of Review. As licensed attorneys, the Commissioners would be bound by the canon of ethics for attorneys and subject to discipline by the Illinois Attorney Registration & Disciplinary Commission ("ARDC").

The public agrees and the voters want this amendment. As a result of the November 2020 election, for the first time in its history, the voters have elected attorneys for all three Commissioners of the Cook County Board of Review.

This amendment would affect only Cook County and would not change or modify any other county's Board of Review.

Todd Thielmann (Board of Review)

From: Cook County <info@info.cookcountyil.gov>
Sent: Thursday, April 22, 2021 7:24 PM
To: Jacob Leland (Board of Review); Tammy Wendt (Board of Review); Amy Owen (Board of Review); James Van Dellen (Board of Review); Ralph Barganski (Board of Review); Todd Thielmann (Board of Review)
Subject: URGENT FROM COMMISSIONER TAMMY WENDT : TEST

I am opposed to Amendment 1 of House Bill 1356, which states that "each member of the board of review in a county with 3,000,000 or more inhabitants must be an attorney licensed to practice law in Illinois," and I urge our IL state representatives to vote against this amendment.

This amendment would require that only licensed attorneys can run for office and serve as Commissioner for the Cook County Board of Review. This extremely limits the field and quality of candidates that can serve as Commissioner and is a disservice to Cook County taxpayers.

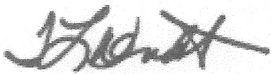
As an attorney, this bill would benefit me in my bid for re-election; however, this is not about me. It is about what is right for the taxpayers and the Board of Review.

Since 1938 the Cook County Board of Review has provided an opportunity for members from all professional backgrounds, especially those in the real estate and legal professions, the opportunity to serve in the role of Commissioner.

Furthermore, I feel it is a disservice to the constituents of Cook County to require the Cook County Board of Review Commissioners to be attorneys and not have the requirement unanimous throughout all of the Cook County Boards.

IMPORTANT! Please call your representatives tonight and tomorrow morning to let them know you oppose limiting those who can serve as Cook County Board of Review Commissioner to only licensed attorneys.

Sincerely,



Commissioner Tammy Wendt

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This service is provided to you at no charge by [Cook County](#).

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5-0090
RECEIVED
ATTORNEY GENERAL

Todd Thielmann (Board of Review)

MAY 4 2021

From: Todd Thielmann (Board of Review)
Sent: Thursday, April 22, 2021 5:15 PM
To: publicaccess@atg.state.il.us
Subject: PAC Review request
Attachments: Fwd: greetings; HB 1356 Amendment (003).pdf

FOIA/OMA

PAC Sarah Pratt,

My name is Todd Thielmann and I am the First Assistant to newly elected Cook County Board of Review Commissioner Tammy Wendt. Commissioner Wendt was sworn in on December 7th, 2020. She hired me as her First assistant on Dec 9th, 2020. I was appointed Trustee for the Palos Fire Protection District in 2013, and still continue to serve my District. Since I have been a public official for many years, I have deep knowledge of the OMA. In my short time at the Board of Review it has become apparent that Commissioners Larry Rogers, Jr. and Michael Cabonargi do not abide by the OMA. As a 3 Commissioner public body that is wholly supported by public funds, if 2 Commissioners engage to discuss policy, it is a violation of the Open Meetings Act. I have counseled Commissioner Wendt that I believed that the OMA did apply to the Cook County Board of Review and it was my recommendation that she seek an opinion from the Cook County States Attorneys office. (Attached) It was their opinion that the Cook County Board of Review must comply with the OMA.

Today, it became more evident that there is a total disregard for an open and transparent process at the Cook County Board of Review. Commissioner Wendt was forwarded a memo in support of HB 1356 that came "from" Larry Rogers, Jr and Michael Cabonargi. (Attached)



As a resident of Cook County, I request all communications between Commissioner Larry Roger, Jr and Commissioner Michael Cabonargi concerning HB1356.

I would also expect the Illinois Attorney General's office, and you, as the Public Access Counselor, insure that all Cook County Board of Review Commissioners are made aware of the requirements under the OMA, including required training of designated individuals and the elected Commissioners.

Both Commissioner Rogers, Jr. and Cabonargi are attorneys and should be held to a higher standard. Their total disregard of the law is a slap in the face to their constituents.

Respectfully,

Todd Thielmann

Todd Thielmann

Chief of Staff – Commissioner Tammy Wendt

Cook County Board of Review

118 North Clark Street, Room 601

Chicago, Illinois 60602

312-257-5811

Todd.thielmann@cookcountyil.gov

T
The Thielmann Family
75 Country Square Rd
Palos Heights, IL 60463

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30 APR 2021 PM 4 L



Earth
April 2021



Sarah Pratt
Public Access Counselor
Office of the Attorney General
500 S. 2nd St.
Springfield, IL.
62701

RECEIVED
ATTORNEY GENERAL

MAY 4 2021

FOIA/OMA

62701-177199



The following is a statement from Commissioners of the Cook County Board of Review, Larry Rogers, Jr. and Michael Cabonargi on why they are championing HB1356, a good government bill in Springfield that would require Commissioners of the Cook County Board of Review to be licensed attorneys:

“This is a good government bill that will further professionalize the Board of Review. As a quasi-judicial body that sits as an appellate tribunal, the courts have established that filing a complaint with the Board is the practice of law. It is only appropriate that the Commissioners who lead the Board and all its work be licensed attorneys.

“As licensed attorneys, Commissioners are held to a higher ethical standard and subject to discipline by the Illinois Attorney Registration & Disciplinary Commission, another safeguard that voters clearly value since they’ve now elected three licensed attorneys as Commissioners of the Board.

“While others have contended that this bill will close the door to real estate professionals becoming Commissioners, it’s fundamental that the Board is an independent legal review of the Assessor’s work, as explicitly defined in the Illinois Property Tax Code and relevant case law.

The bill cleared the House Revenue & Finance Committee on a party-line 10-6 vote on April 13. But it did not reach a vote during an hours-long House floor session on Friday, one day after Cook County **Assessor Fritz Kaegi** and newly elected Board of Review **Comm. Tammy Wendt** (D-1) went public with their opposition.

Rogers and Cabonargi told *The Daily Line* on Friday that their "good government bill" represents the "next natural step" in their multi-year effort to "professionalize" the office, which has until now involved hiring more licensed attorneys to the board's staff.

"This is a quasi-judicial body — only a licensed attorney can represent a party before the Cook County Board of Review," Cabonargi said. "The courts have acknowledged that the practice before the board is the practice of law, and it stands to reason that the commissioners on the Board of Review should be attorneys."

The bill would only apply the campaign restriction to Cook County because "other Boards of Review have to decide if that's appropriate for their agencies based on the matters before them," Rogers said.



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

May 7, 2021

The Honorable Larry R. Rogers, Jr.
Commissioner
Cook County Board of Review
118 North Clark Street, Room 601
Chicago, Illinois 60602
rogers@cookcountyl.gov

The Honorable Michael M. Cabonargi
Commissioner
Cook County Board of Review
118 North Clark Street, Room 601
Chicago, Illinois 60602
Michael.cabonargi@cookcountyl.gov

RE: OMA Request for Review – 2021-PAC-S-0090

Dear Mr. Rogers and Mr. Cabonargi:

The Public Access Bureau has received the attached Request for Review in which Mr. Todd Thielmann alleges that the Cook County Board of Review (Board) violated the Open Meetings Act (OMA) (5 ILCS 120/1 *et seq.* (West 2018)). This office has determined that further action is warranted.

In his Request for Review, Mr. Thielmann, chief of staff for Commissioner Tammy Wendt, alleged that the Board's other two Commissioners discussed public business outside of a Board meeting held in accordance with the requirements of OMA. In support of that assertion, Mr. Thielmann submitted a copy of what appears to be a memorandum in which the two Commissioners endorse and recommend an amendment to the Illinois Property Tax Code (35 ILCS 200/1-1 *et seq.* (West 2018)).

This office requests that the Board or its legal representative provide a written response to the allegation that two of the Board's Commissioners developed the written endorsement and/or agreed to support the amendment by engaging in communications that

The Honorable Larry R. Rogers, Jr.
The Honorable Michael M. Cabonargi
May 7, 2021
Page 2

constitute a "meeting"¹ without complying with the requirements of OMA. In your response, please clarify whether two Commissioners issued the written endorsement attached to the Request for Review and, if so, describe how that document was developed and how a consensus on the endorsement was reached. If any verbal discussions were held, please specify when they occurred, summarize the conversations, and provide copies of any notes or other documentation of the discussions. If Commissioners communicated by e-mails, text messages, or other electronic means, please provide copies of those communications for our confidential review. If the Board disputes that it is a public body subject to the requirements of OMA, please provide a detailed explanation.

This information must be submitted to our office within seven business days after receipt of this letter. 5 ILCS 120/3.5(b) (West 2018)). Under OMA, "[t]he Public Access Counselor shall forward a copy of the answer or redacted answer, if furnished, to the person submitting the request for review. The requester may, but is not required to, respond in writing[.]" 5 ILCS 120/3.5(c) (West 2018). **If you claim that any portion of your written response is confidential, please send two versions of your response letter: a complete copy for this office's confidential review and a redacted version suitable for this office to forward to the requester.**

If you have questions, you may contact me at (312) 814-6756 or steven.silverman@illinois.gov. Thank you.

Very truly yours,



STEVE SILVERMAN
Bureau Chief
Public Access Bureau

¹OMA defines a "meeting" as:

[A]ny 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 2018).

The Honorable Larry R. Rogers, Jr.
The Honorable Michael M. Cabonargi
May 7, 2021
Page 3

cc: Mr. Todd Thielmann
Chief of State to Commissioner Tammy Wendt
Cook County Board of Review
118 North Clark Street
Chicago, Illinois 60602
Todd.thielmann@cookcountyil.gov

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION



IN RE PETITION FOR
APPOINTMENT OF A
SPECIAL STATE'S ATTORNEY

)
)
)

No. 21 CH 02951

ORDER

THIS CAUSE COMING TO BE HEARD on State's Attorney Kimberly M. Foxx's Petition for Appointment of a Special State's Attorney, the Court being fully advised in the premises finds that a conflict of interest exists that precludes the Cook County State's Attorney's Office from advising and representing Larry Rogers and Michael Cabonargi as respondents in this matter, as set forth in the Petition For Appointment and, thus, **IT IS HEREBY ORDERED THAT:**

1. The Petition is GRANTED. Keri-Lyn Krafthefer and Eugene Bolotnikov of Ancel Glink, P.C. are hereby appointed as Special State's Attorneys of Cook County, Illinois, for the purpose of representing Board of Review Commissioners Larry Rogers and Michael Cabonargi as respondents in the pending complaint before the Illinois Public Access Counselor, subject to the Cook County Guidelines for Special State's Attorneys and retroactively effective to June 10, 2021;
2. The Special State's Attorneys shall possess the power and duty of the State's Attorney in discharging this appointment;
3. The Special State's Attorneys agree to comply with the terms of the Cook County Guidelines for Special State's Attorneys;
4. At the request of the Cook County State's Attorney's Office, this court expressly directs a billing rate of \$185 for all attorneys appointed herein;
5. Requests for compensation shall be submitted for review to the presiding judge hearing this petition with notice to the Cook County State's Attorney;
6. This court shall retain jurisdiction of this appointment until such time as this appointment is terminated, whether by this court's own motion or a motion made by either the State's Attorney or the Special State's Attorneys;
7. The case management date of October 15, 2021 is hereby stricken.

Dated: June 28, 2021

**ATTORNEY NO. 10295
KIMBERLY M. FOXX
STATE'S ATTORNEY OF COOK COUNTY**

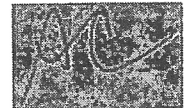
Name : Silvia Mercado Masters
Address 500 Richard J. Daley Center
City Chicago, Illinois 60602
Telephone (312) 603-7795

Honorable Judge Alison C. Conlon
Circuit Court of Cook County

Judge Alison C. Conlon

JUN 28 2021

Circuit Court - 2140





A Professional Corporation
140 South Dearborn Street, Suite 600
Chicago, IL 60603
www.ancelglink.com

Keri-Lyn J. Krafthefer
kkrafthefer@ancelglink.com
(P) 312.604.9126
(F) 630.596.4611

July 24, 2021

Via: E-Mail

Steve Silverman (*steven.silverman@illinois.gov*)
Bureau Chief
Public Access Bureau
Office of the Illinois Attorney General
500 S. Second Street
Springfield, Illinois 62701

RE: NOTICE OF RESPONSE TO REQUEST FOR REVIEW 2021-PAC S-0090

Dear Bureau Chief Silverman:

We have been appointed the Special Assistant State's Attorneys for Cook County Board of Review Commissioners Larry R. Rogers, Jr. and Michael M. Cabonargi. Pursuant to §3.5(c) of Open Meetings Act ("OMA"), 5 ILCS 120/3.5(c), this letter constitutes the response of Commissioner Rogers, Jr. and Commissioner Cabonargi to the allegations contained in the May 7, 2021 Request for Review 2021-PAC-S-0090 ("Request for Review") sent to both Commissioners by the Illinois Attorney General's Public Access Bureau ("PAC").

In the Request for Review, Mr. Thielmann, the cousin of and chief of staff for Cook County Board of Review Commissioner Tammy Wendt, alleges that Commissioners Rogers, Jr. and Cabonargi discussed public business outside of a Board meeting in contravention of the OMA. In support of this accusation, Mr. Thielmann's Request for Review included a memorandum concerning a proposed amendment to the Illinois Property Tax Code, which Commissioners Rogers, Jr. and Cabonargi allegedly endorsed. Specifically, the memorandum discussed an amendment to the Illinois General Assembly's House Bill 1356, which would further professionalize the Cook County Board of Review by adding a proposed requirement for Commissioners serving on the Board to be licensed attorneys. Although the memorandum contained the seal of the Cook County Board of Review and was signed by Commissioners Rogers, Jr. and Cabonargi, the memorandum itself was generated by Commissioner Cabonargi in his personal (rather than official) capacity in support of an Illinois General Assembly legislative initiative discussed therein and did not pertain to any official business or policy of the Board of Review.

For the reasons that follow, Commissioners Rogers, Jr. and Cabonargi aver that any communications between the Commissioners concerning the memorandum did not constitute a prohibited meeting in violation of the OMA because the memorandum concerning a proposed legislative amendment by the Illinois General Assembly does not constitute the discussion of the Board of Review's public business or policies.

July 24, 2021

Page 2

The 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*. The OMA does not define the specific contours of “public business.”

Here, however, a thorough review of the relevant memorandum reveals that it does not pertain to the transaction of the Board’s public business at all. Rather, the memorandum discusses a proposed legislative amendment that would require Cook County Board of Review Commissioners to be licensed attorneys as a pre-requisite to serving on the Board and the putative ethical and public benefits accompanying this contemplated change to the Property Tax Code. Among the Board’s public responsibilities, the Board is empowered to receive evidence, conduct hearings, and issue decisions concerning residential and commercial tax assessment appeals, tax exemptions and the property rights of others in Cook County. The memorandum does not directly or tangentially address the Board’s conduct of public business, such as evidence, hearing or internal policy changes within or pertaining to the Board of Review. Instead, the memorandum discusses the public business of *another* entity, the Illinois General Assembly, and their contemplated house bill that proposed to modify the professional requirements to serve on the Board.

Because the subject matter of the memorandum was clearly outside the immediate and direct scope of any public business conducted by the Board of Review, any discussions between Commissioners Rogers, Jr. and Cabonargi related to the memorandum and any endorsement thereof did not necessitate a public meeting under the OMA. Further, since the memorandum does not pertain to the public business of the Board, Commissioners Rogers, Jr. and Cabonargi did not need a quorum of the Board to vote to approve affixing their names to the memorandum during a public meeting, because again, the memorandum did not concern public business and the signatures of the Commissioners was simply meant to lend their knowledge and expertise to illuminate a legislative initiative that was not the Board’s public business. Indeed, Commissioners Rogers, Jr. and Cabonargi never met in their official capacities to take official action concerning the memorandum. As individuals, they still have First Amendment rights to discuss and advocate for legislation that they support or oppose in their individual capacities. Had the Commissioners intended to take a final action regarding a matter of public business pertaining to the Board, they would have passed a formal resolution or taken other formal action at a public meeting as required by the OMA. The fact that the memorandum contained the Board’s seal and was signed by two Commissioners is immaterial to the preceding conclusion that Commissioners Rogers, Jr. and Cabonargi were lawfully entitled to discuss or endorse the memorandum without a quorum of the Board because the memorandum did not concern the Board’s public business. The endorsement was not action of the Board of Review. It was an endorsement of the individuals.

If you have any additional questions regarding our response to this Request for Review or if I can be of further assistance, please contact me at your convenience.

ANCEL GLINK

July 24, 2021
Page 3

Sincerely yours,

A handwritten signature in cursive script, reading "Keni G. Kratt". The signature is written in dark ink and includes a long horizontal flourish at the end.

PAC Review Request 2021-PAC-S-0090

07/26/2021

Dear Bureau Chief Silverman,

It is offensive to the public that Commissioner's Cabonargi and Rogers defense to the violation of the Open Meetings Act is that their concerted efforts did not concern the Cook County Board of Review.

As Illinois elected officials, using Cook County Board of Review letterhead, they were certainly acting in their official duty as Cook County Board of Review Commissioners and as a quorum of the Cook County Board of Review. I would further like to point out that not only was there discussion, but by issuing the official letter, it constitutes a final action.

No evidence was provided as to the contents of the discussions or consensus of endorsement that took place between Commissioners Cabonargi and Roger, as was requested by your office.

I would like to point out the interview that the two Commissioners granted to Alex Nitkin of *The Daily Line* dated April 26th, 2021. Mr. Nitkin confirmed that both Commissioners Cabonargi and Rogers were on the conference call together.

Commissioner Cabonargi is quoted as saying, "This is something that's a long time coming to continue the professionalism that we brought to the Board of Review"

The article also states that both Commissioners said that the bill is crafted to make the office run more smoothly.

Those two statements reflect the efforts of two Commissioners to control policy within the Cook County Board of Review outside of the purview of the public body.

I request that all discussions on HB 1356 between Commissioner Cabonargi, Commissioner Rogers and Illinois State Representative Curtis Tarver be investigated and provided as evidence in this matter.

I request that notes taken by Alex Nitkin during the interview to produce the April 26th, 2021 article be requested and provided as evidence in this matter.

As a matter of framing the disregard of the Open Meetings Act by two of the Commissioners, I point to the 2020 Board of Review Public meeting held on June 29th, 2021.

During the "Closing" meeting of the 2020 Cook County Board of Review, which took place on June 29th, 2021, both Commissioners Cabonargi and Rogers make public statements that they have both reached out to Commissioner Wendt to "help" her understand how the Board of Review operates. Commissioner Rogers also openly admits how he and Commissioner Cabonargi "...discuss and decide what's in the best interest of the Agency". Commissioner Cabonargi states that once Commissioner Wendt was sworn in, He and Commissioner Rogers were on the phone "daily" with Commissioner Wendt. Commissioner Cabonargi goes on to say that Commissioner Wendt's interpretation of the Open Meeting Act is "unique". The Open Meetings Act is established law and the fact that Commissioner Cabonargi suggests

having discussions with Commissioner Wendt "...best to have behind closed doors." is a slap in the face to Cook County residents and a clear violation of the Open Meeting Act. The culture at the Cook County Board of Review has, for a long time, been one of secret deals and behind closed doors agreements.

In counsel's response to the PAC, they argue the content of the discussions between Commissioner Cabonargi and Rogers, not whether the Open Meetings Act applies to the Cook County Board of Review.

I do believe that the content, discussions and final action around HB 1356, the use of Official Cook County Board of Review letterhead with the seal of the County, and the use of Cook County Board of Review assets; carries every appearance of official business and a violation of the Open Meetings Act.

Regards,

Todd Thielmann

A handwritten signature in black ink that reads "Todd Thielmann". The signature is written in a cursive, flowing style with a long horizontal line extending to the right.



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Chicago, IL 60603
www.ancelglink.com

Keri-Lyn J. Krafthefer
kkrafthefer@ancelglink.com
(P) 312.604.9126
(F) 630.596.4611

November 16, 2021

Via: E-Mail

Mr. Steven Silverman (steven.silverman@illinois.gov)
Bureau Chief
Public Access Bureau
Office of the Illinois Attorney General
500 S. Second Street
Springfield, Illinois 62701

RE: SUPPLEMENTAL RESPONSE TO REQUEST FOR REVIEW 2021-PAC S-0090

Dear Bureau Chief Silverman:

Please let this serve as the supplemental response of the Cook County Board of Review Commissioners Larry R. Rogers, Jr. and Michael M. Cabonargi in relation to the above matter. Two issues are critical to the resolution of this matter. First, this case hinges on the definition of "public business" under the statute. It is the position of Commissioners Rogers and Cabonargi that their advocacy for legislation does not related to any "public business" that the Cook County Board of Review would have the ability to engage in. Boards of review do not possess the statutory power to lobby for legislation, so a vote at an open meeting of the Cook County Board of Review to support legislation would be inappropriate and outside the statutory jurisdiction of the Board of Review.

Second, the Board of Review is a quasi-adjudicative body that only comes in existence to consider property tax complaints. Unlike most public bodies which are not quasi-adjudicative in nature, it does not have the ability or power to hold a "meeting" for any other purpose. Accordingly, it did not violate the Open Meetings Act.

As discussed in our initial submission, the Board of Review is distinct from other public bodies, in that it has a very narrow statutory purpose. The Board of Review is established in the Illinois Property Tax Code. Its duties are set forth at 35 ILCS 200/16-95.

Mr. Thielmann's confusion apparently stems from the type of body the Board of Review is. It is not a legislative body. It is a quasi-judicial body vested with only with responsibilities to make rulings on property tax cases. The Board of Review comes into existence when taxpayers file assessment complaints. It is not a public body that is continuously in session; it exists for a limited purpose. It holds public hearings on such complaints, and that is all that it does. It is not empowered to do anything else. This is what Section 16-95 specifies:

November 16, 2021

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Sec. 16-95. Powers and duties of board of appeals or review; complaints. In counties with 3,000,000 or more inhabitants, until the first Monday in December 1998, the board of appeals in any year shall, on complaint that any property is overassessed or underassessed, or is exempt, review and order the assessment corrected.

Beginning the first Monday in December 1998 and thereafter, in counties with 3,000,000 or more inhabitants, the board of review:

(1) shall, on written complaint of any taxpayer or any taxing district that has an interest in the assessment that any property is overassessed, underassessed, or exempt, review the assessment and confirm, revise, correct, alter, or modify the assessment, as appears to be just; and

(2) may, upon written motion of any one or more members of the board that is made on or before the dates specified in notices given under Section 16-110 for each township and upon good cause shown, revise, correct, alter, or modify any assessment (or part of an assessment) of real property regardless of whether the taxpayer or owner of the property has filed a complaint with the board; and

(3) shall, after the effective date of this amendatory Act of the 96th General Assembly, pursuant to the provisions of Sections 9-260, 9-265, 2-270, 16-135, and 16-140, review any omitted assessment proposed by the county assessor and confirm, revise, correct, alter, or modify the proposed assessment, as appears to be just.

35 ILCS 200/16-95.

As this section of the Property Tax Code shows, boards of review are statutory creatures with very narrow functions. While the hearings they hold must be open and are subject to the Open Meetings Act, the Board has no statutory power to decide it is going to hold a general "meeting" to discuss and endorse or oppose legislation proposed by the General Assembly. This is what Section 16-105 of the statute says about Board of Review "meetings."

(35 ILCS 200/16-105)

Sec. 16-105. Time of meeting - Public records. In counties with 3,000,000 or more inhabitants, the board of appeals (until the first Monday in December 1998 and the board of review beginning the first Monday in December 1998 and thereafter) shall meet on or before the second Monday in September in each year for the purpose of revising the assessment of property as provided for in this Code. The meeting may be adjourned from day to day as may be necessary.

All hearings conducted by the board under this Code shall be open to the public. All files maintained by the board relating to the matters specified in Sections 16-95, 16-100, and 16-140 shall be available for public inspection during regular office hours. However, only the actual portions of the income tax return relating to the property for which a complaint has been filed shall be a public record. Copies of

November 16, 2021

Page 3

such records shall be furnished upon request. The board may charge for the costs of copying, at 35¢ per page of legal size or smaller and \$1 for each larger page.

Because the Board of Review is a statutory creature, it can only perform those functions it is given by statute. The budget for the Board of Review is approved by Cook County – so Cook County holds public meetings related to the Board of Review’s budget; not the Board of Review. The Board of Review has no power whatsoever to do that. There is a specific statutory notice requirement that the Board of Review must provide about its meetings. That requirement is as follows:

(35 ILCS 200/16-110)

Sec. 16-110. Notice of meetings - Filing complaints. In counties with 3,000,000 or more inhabitants, at least one week before its meeting to revise and correct assessments, the board of appeals (until the first Monday in December 1998 and the board of review beginning the first Monday in December 1998 and thereafter) **shall publish a notice of the time and place of that meeting. The board shall, from time to time, publish notices which shall specify the date and place at which complaints may be filed** for those townships or taxing districts for which property assessments have been completed by the county assessor, and which will then be considered for revision and correction at that time. All notices required by this Section may provide for a revision and correction at the specified time of one or more townships or taxing districts. All such notices shall be published once in at least one newspaper of general circulation published in the county. The board at the time and place fixed, and upon notice as provided in this Section, may receive and hold hearings on all those complaints and revise and correct assessments within those townships or taxing districts. Taxpayers shall have at least 20 days after the date of publication of the notice within which to file complaints.

The following section of the Property Tax Code addresses hearings.

(35 ILCS 200/16-125)

Sec. 16-125. Hearings. In counties with 3,000,000 or more inhabitants, complaints filed with the board of appeals (until the first Monday in December 1998 and the board of review beginning the first Monday in December 1998 and thereafter) shall be classified by townships. All complaints shall be docketed numerically, in the order in which they are presented, as nearly as possible, in books or computer records kept for that purpose, which shall be open to public inspection. The complaints shall be considered by townships until they have been heard and passed upon by the

November 16, 2021

Page 4

board. After completing final action on all matters in a township, the board shall transmit such final actions to the county assessor.

A hearing upon any complaint shall not be held until the taxpayer affected and the county assessor have each been notified and have been given an opportunity to be heard. All hearings shall be open to the public and the board shall sit together and hear the representations of the interested parties or their representatives. An order for a correction of any assessment shall not be made unless both commissioners of the board, or a majority of the members in the case of a board of review, concur therein, in which case, an order for correction shall be made in open session and entered in the records of the board. When an assessment is ordered corrected, the board shall transmit a computer printout of the results, or make and sign a brief written statement of the reason for the change and the manner in which the method used by the assessor in making the assessment was erroneous, and shall deliver a copy of the statement to the county assessor. Upon request the board shall hear any taxpayer in opposition to a proposed reduction in any assessment.

The board may destroy or otherwise dispose of complaints and records pertaining thereto after the lapse of 5 years from the date of filing.

If one reviews the entirety of the Illinois Property Tax Code, one would find that there the Board of Review does not possess authority to have meetings for any other purpose other than its statutory functions. This is unlike, for example, Illinois municipalities which have power conferred upon them by the Illinois Municipal Code to call and hold public meetings. There is no requirement that the Board of Review meet in open session to discuss, endorse or oppose legislation; the Board of Review has no statutory authority to have such meetings, nor to make such endorsements. It has an opening session and a closing session for each tax year; and then hearings on complaints.

In Mr. Theilmann's response, it appears that his complaint is really that the individual commissioners used the letterhead of the Board of Review when they expressed their opinion regarding legislation. While the use of such letterhead may have appeared to imply that the Board of Review had taken action on the legislation, the fact of the matter is that the Board of Review does not possess the authority to lobby or support or oppose legislation. Because the Board of Review does not have the legal ability to do such, it would be very odd to find that the Board of Review has to hold an open meeting to accomplish something it has no legal ability to do.

For these reasons, the correspondence that Commissioners Rogers and Cabonargi submitted does not relate to public business by the Board and did not constitute a violation of the Open Meetings Act.

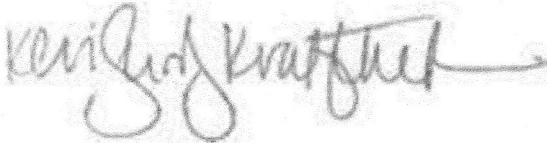
ANCEL GLINK

November 16, 2021

Page 5

If you have any additional questions regarding our response to this Request for Review or if I can be of further assistance, please contact me at your convenience.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Kevin G. Kratt". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

11/29/2021

Dear Bureau Chief Silverman,

I find it interesting that counsel submitted an unsolicited supplemental brief. That being said, I appreciate the chance for a reply.

I won't bore you with citation of the property tax statute as the other 101 Boards of Review within Illinois do operate within the framework of the Open Meetings Act. The OMA is specific in its exclusions of public bodies that do not need to adhere to the Act.

(5 ILCS 120/1.02)

"Public body" includes all legislative, executive, administrative or advisory bodies of the State, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees or commissions of this State, and any subsidiary bodies of any of the foregoing including but not limited to committees and subcommittees which are supported in whole or in part by tax revenue, or which expend tax revenue, except the General Assembly and committees or commissions thereof. "Public body" includes tourism boards and convention or civic center boards located in counties that are contiguous to the Mississippi River with populations of more than 250,000 but less than 300,000. "Public body" includes the Health Facilities and Services Review Board. "Public body" does not include a child death review team or the Illinois Child Death Review Teams Executive Council established under the Child Death Review Team Act, an ethics commission acting under the State Officials and Employees Ethics Act, a regional youth advisory board or the Statewide Youth Advisory Board established under the Department of Children and Family Services Statewide Youth Advisory Board Act, or the Illinois Independent Tax Tribunal.

Further, an opinion was requested from the Cook County State Attorney's office, and it affirmed that the Cook County Board of Review is a public body and required to adhere to the OMA. (See attached)

Since the Cook County State Attorney is the assigned counsel to the Cook County Board of Review, it goes without saying why the Commissioners sought outside counsel. I would venture to say that there was a violation of the OMA act in the hiring of counsel and discussions of the RFR with counsel.

Individually, Commissioners Rogers and Cabonargi have every right to advocate for any legislation but when they do it collectively, under their titles and submit memorandums on Cook County Board of Review letterhead it has every appearance of official business. An average citizen would surmise that an official action had taken place. It is also not inappropriate for the Board of Review to lobby for or against any action to change the Property Tax code. The Board of Review has and will continue to lobby for

change where and when it sees fit. In fact, the Board of Review is currently working with legislators to change some details of the Illinois Property Tax code relating to the Property Tax Appeal Board.

The second point that counsel brings up is that the Board of Review does not have the power to hold a “meeting” for any other purpose than to “consider property tax complaints.” Factually, the Board of Review holds at least 3 public meetings a year. Not one of those meetings has ever involved a property tax complaint. What is the point of posting, holding & keeping minutes if it’s not a statutorily required under OMA?

Since counsel brought it up, this paragraph in their response is concerning: *Mr. Thielmann’s confusion apparently stems from the type of body the Board of Review is. It is not a legislative body. It is a quasi-judicial body vested with only with responsibilities to make rulings on property tax cases. The Board of Review comes into existence when taxpayers file assessment complaints. It is not a public body that is continuously in session; it exists for a limited purpose. It holds public hearings on such complaints, and that is all that it does. It is not empowered to do anything else.*

The Cook County Board of Review does not hold public hearings for property tax complaints. Further, actions taken on appellants that are a result of improper meetings can be reversed. A property tax attorney can likely challenge a decision that harms their client. There should be a further review of this process by the PAB. In a review of other Illinois Boards of Review, their hearings are posted, recorded and available for public view. None of which currently occurs in Cook County.

While it is a fact that the Cook County Board of Commissioners does vote on the final County budget, the Board of Review does hold “internal” meetings where a majority quorum is present and votes on the budget that will be presented to the Board of Commissioners. When there is a discussion on the spending of public funds, a majority quorum of the Board of Review is present and votes on said budget, it is my understanding that OMA needs to be honored. Nothing gets approved at the Board of Review unless 2 of the 3 Commissioners agree.

(5 ILCS 120/1)

Sec. 1. Policy. It is the public policy of this State that public bodies exist to aid in the conduct of the people's business and that the people have a right to be informed as to the conduct of their business. In order that the people shall be informed, the General Assembly finds and declares that it is the intent of this Act to ensure that the actions of public bodies be taken openly and that their deliberations be conducted openly.

One last comment, as 1st Assistants, we are proxies for our respective Commissioners in many minor instances, but it shouldn’t be used a way to avoid the spirit of the Opens Meeting Act.

Respectfully,



Todd Thielmann



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

January 19, 2022

Via electronic mail

Mr. Todd Thielmann, CIAO
Chief of Staff – Commissioner Tammy Wendt
Cook County Board of Review
118 North Clark Street, Room 601
Chicago, Illinois 60602
todd.thielmann@cookcountyil.gov

Via electronic mail

Ms. Keri-Lyn J. Krafthefer
Ancel Glink, A Professional Corporation
140 South Dearborn Street, Suite 600
Chicago, Illinois 60603
kkrafthefer@ancelglink.com

RE: OMA Request for Review – 2021-PAC-S-0135

Dear Mr. Thielmann and Ms. Krafthefer:

This determination is issued pursuant to section 3.5(e) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(e) (West 2020)). For the reasons that follow, the Public Access Bureau concludes that the Cook County Board of Review (Board) held an improper closed meeting on March 10, 2021.

In his Request for Review, submitted May 10, 2021, Mr. Todd Thielmann alleged that the Board held an improper private meeting on March 10, 2021, to discuss recommendations made by the Cook County Office of the Independent Inspector General (Inspector General's Office). Mr. Thielmann submitted the complaint as Chief of Staff for Tammy Wendt, one of the three Commissioners on the Board. He stated that in addition to Ms. Wendt and the other two Commissioners—Larry Rogers, Jr. and Michael Cabonargi—the meeting included three named first assistants, Mr. Rogers' chief of staff, the Board secretary, and two Cook County Assistant

Mr. Todd Thielmann
Ms. Keri-Lyn J. Krafthefer
January 19, 2022
Page 2

State's Attorneys. Mr. Thielmann provided meeting scheduling documentation reflecting the meeting timing and participants.

On May 13, 2021, this office forwarded a copy of the Request for Review to Commissioners Rogers and Cabonargi and asked that the Board provide this office with copies of any notices, agendas, minutes, and recordings from its March 10, 2021, gathering for this office's confidential review. This office also asked the Board to respond in writing to the allegation that the gathering constituted an improper private meeting, explaining the extent to which the Board discussed the transaction of public business. On July 24, 2021, an attorney for a law firm appointed as Special Assistant State's Attorneys for Commissioners Rogers and Cabonargi (Board Majority), Ms. Keri-Lyn J. Krafthefer, provided a written response. On August 4, 2021, Mr. Thielmann submitted a reply. On September 6, 2021, Ms. Krafthefer stated that the Board Majority wished to provide this office with new information about this matter. Ms. Krafthefer provided that supplemental argument on November 16, 2021. On November 23, 2021, Mr. Thielmann submitted a supplemental reply to that supplemental submission.

DETERMINATION

The intent of OMA is "to ensure that the actions of public bodies be taken openly and that their deliberations be conducted openly." 5 ILCS 120/1 (West 2020). Section 1.02 of OMA (5 ILCS 120/1.02 (West 2020)) defines "public body" as including:

all legislative, executive, administrative or advisory bodies of the State, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees or commissions of this State, and any subsidiary bodies of any of the foregoing including but limited to committees and subcommittees which are supported in whole or in part by tax revenue, or which expend tax revenue, except the General Assembly and committees or commissions thereof. "Public body" includes tourism boards and convention or civic center boards located in counties that are contiguous to the Mississippi River with populations of more than 250,000 but less than 300,000. "Public body" includes the Health Facilities and Services Review Board. "Public body" does not include a child death review team or the Illinois Child Death Review Teams Executive Council established under the Child Death Review Team Act, an ethics commission acting under the State Officials and Employees Ethics Act, a regional youth advisory board or the Statewide Youth Advisory Board established under the

Department of Children and Family Services Statewide Youth
Advisory Board Act, or the Illinois Independent Tax Tribunal.

In its initial response to this office, the Board Majority argued that the "meeting held on March 10, 2021 was not an improperly closed meeting in violation of the OMA because the meeting was held to discuss purely administrative matters unrelated to the transaction of public business by the Board."¹ Acknowledging that the Board "is a public body entrusted with performing certain public duties, including receiving evidence, conducting hearings, and issuing decisions concerning residential and commercial tax assessment appeals, tax exemptions and the property rights of others in Cook County[.]" the Board Majority claimed that "[a]t the March 10, 2021 meeting at issue, the Board did not discuss any of those matters pertaining to its public business."² The Board Majority's attorney continued:

Instead of discussing public business pertaining to the Board, the meeting at issue was held to discuss matters purely administrative in nature, such as establishing job descriptions for Board of Review employees, discussions concerning whether certain staff members should be allowed to go home, and whether the Board of Review needed to hire outside counsel for certain labor matters. All of these conversations took place with the attorneys for the Board of Review, which were the designated Assistant State's Attorneys. There are many administrative matters that the Board members provide direction to staff about that do not require a vote of the Board of Review. Conversations occur regularly about whether the Board should order more pencils, or whether staff should be allowed to go home early on a holiday weekend, and all sorts of related issues. These daily administrative decisions do not constitute public business of the Board of Review because they are unrelated to the Board's ultimate functions.^[3]

In his reply, Mr. Thielmann disputed the Board Majority's depiction of the substance of the March 10, 2021, meeting, which he attended. He argued:

¹Letter from Keri-Lyn J. Krafthefer, Ancel Glink, to Joshua Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General (July 24, 2021), at 1.

²Letter from Keri-Lyn J. Krafthefer, Ancel Glink, to Joshua Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General (July 24, 2021), at 2.

³Letter from Keri-Lyn J. Krafthefer, Ancel Glink, to Joshua Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General (July 24, 2021), at 2.

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The meeting was requested to address recommendations outlined by the Cook County Inspector General concerning many policies at the Cook County Board of Review. Most of these policies are public business and not purely administrative as defended by counsel. How the Cook County Board of Review describes the jobs that public employees engage in, is public business. It defines their role and delegates their responsibilities within the Cook County Board of Review.^[4]

Addressing the Board Majority's argument that ordering pencils is purely administrative, Mr. Thielmann argued that as a public body the Board "needs to be transparent about who the pencils are ordered from, how much they cost and if a request for bid was submitted, if required."⁵

In its supplemental response, the Board Majority argued that "[t]wo issues are critical to the resolution of this matter."⁶ Addressing the first issue—discussion of public business—Ms. Krafthefer asserted:

It is the position of Commissioners Rogers and Cabonargi that "public business" would mean anything that the Board of Review would be called upon to ultimately vote on at a public meeting. The matters that were discussed at the March 10, 2021 staff meeting were not matters that the Board of Review would ever vote on.^[7]

The second critical issue, according to the Board Majority, is that "the Board of Review is a quasi-adjudicative body that only comes in existence to consider property tax complaints. Unlike most public bodies which are not quasi-adjudicative in nature, it does not have the ability or power to hold a 'meeting' for any other purpose."⁸ Stating that the Board's powers are set forth in

⁴Letter from Todd Thielmann to Deputy Bureau Chief Jones (August 4, 2021).

⁵Letter from Todd Thielmann to Deputy Bureau Chief Jones (August 4, 2021).

⁶Letter from Keri-Lyn J. Krafthefer, Ancel Glink, to Joshua Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General (November 16, 2021), at 1.

⁷Letter from Keri-Lyn J. Krafthefer, Ancel Glink, to Joshua Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General (November 16, 2021), at 1.

⁸Letter from Keri-Lyn J. Krafthefer, Ancel Glink, to Joshua Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General (November 16, 2021), at 1.

section 16-95 of the Property Tax Code (35 ILCS 200/16-95 (West 2020)), the Board Majority argued that:

As this section of the Property Tax Code shows, boards of review are statutory creatures with very narrow functions. While the hearings they hold must be open and are subject to the Open Meetings Act, the Board has no statutory power to decide it is going to hold a general "meeting" to discuss how its office will operate, just like judges do not have open meetings to discuss staffing issues behind courtroom doors.^[9]

Ms. Krafthefer additionally quoted sections 16-105, 16-110, and 16-125 of the Property Tax Code, (35 ILCS 200/16-105, 16-110, 16-125 (West 2020)), which concern the Board's "Time of meeting," "Notice of meetings," and "Hearings," respectively. She further argued:

If one reviews the entirety of the Illinois Property Tax Code, one would find that there the Board of Review does not possess authority to have meetings for any other purpose other than its statutory functions. This is unlike, for example, Illinois municipalities which have power conferred upon them by the Illinois Municipal Code to call and hold public meetings. There is no requirement that the Board of Review meet in open session to discuss the administrative operations of its office; it has no statutory authority to have such meetings. It has an opening session and a closing session for each tax year; and then hearings on complaints.

If there is going to be a requirement that the Board meet in open session to discuss its office operations unrelated to the public business of the Board, the Property Tax Code will need to be amended to allow the Board of Review to meet for that purpose. It was not the intention of the Open Meetings Act for adjudicative bodies to have public meetings for purposes that do not related [sic] to the public business those bodies transact.^[10]

⁹Letter from Keri-Lyn J. Krafthefer, Ancel Glink, to Joshua Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General (November 16, 2021), at 2.

¹⁰Letter from Keri-Lyn J. Krafthefer, Ancel Glink, to Joshua Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General (November 16, 2021), at 4.

In his supplemental reply, Mr. Thielmann stated: "I won't bore you with citation of the property tax statute as the other 101 Boards of Review within Illinois do operate within the framework of the Open Meetings Act."¹¹ He enclosed an opinion from the Cook County State's Attorney's Office concluding that the Board is a public body subject to OMA.¹² Mr. Thielmann additionally argued that it is immaterial that the Board did not conduct public business in the form of taking final action during the gathering on March 10, 2021, because deliberation about public business is within the scope of the Act.

Addressing the critical issues Ms. Krafthefer raises in turn, the meaning of "public business" for purposes of OMA is not limited to items on which the Board necessarily intends to vote. Under the Open Meetings Act, "meeting" is defined as "any gathering of a majority of a quorum of the members of a public body held for the purpose of *discussing* public business." (Emphasis added.) 5 ILCS 120/1.02 (West 2020). OMA does not define "public business." In *City of Champaign v. Madigan*, 2013 IL App (4th) 120662, ¶31, 992 N.E.2d 629, 637 (2013), the Illinois Appellate Court examined the meaning of the term "public business" in the context of a Freedom of Information Act (FOIA) (5 ILCS 140/1 *et seq.* (West 2020)) request involving communications sent and received by members of a public body during an open meeting. The court found that the term "public business" has a plain and ordinary meaning: "to qualify as a public record a communication must first pertain to 'business or community interests as opposed to private affairs.'" *City of Champaign*, 2013 IL App (4th) 120662, ¶31, 992 N.E.2d at 637 (quoting Merriam–Webster's Collegiate Dictionary 941 (10th ed. 2000)). The meaning in FOIA is relevant to the meaning in OMA because "[b]oth statutes ensure the public's access to information concerning the conduct of public bodies, except in limited circumstances, and must be construed together." *Copley Press, Inc. v. Board of Education for Peoria School District No. 150*, 359 Ill. App. 3d 321, 325, 834 N.E.2d 558, 562 (3d Dist. 2005). Whether formal policy changes are a matter of public business is not a close call. Mr. Thielmann described his firsthand knowledge of the substantive policy discussion the commissioners engaged in on March 10, 2021.

To construe OMA as permitting a public body to hold a private discussion of any matter pertaining to the public body's interests or community interests as long as the discussion does not involve deliberations that culminate in a formal vote authorized by a statute is to narrowly define "public business" as limited to matters upon which a public body is expressly empowered to take "final action." That interpretation is unsupported by case law, and adopting it

¹¹Letter from Todd Thielmann to Deputy Bureau Chief Jones (November 23, 2021), at [1].

¹²Letter from Amy Crawford, Deputy Chief, Civil Actions Bureau, Cook County State's Attorney's Office, to Commissioner Wendt (March 31, 2021).

would undermine the intent of the General Assembly articulated in section 1 of OMA:¹³ "The General Assembly * * * declares it to be the public policy of this State that its citizens shall be given advance notice of and the right to attend all meetings at which **any business of a public body is discussed** or acted upon **in any way**." (Emphasis added.) As the Deputy Chief of the Civil Actions Bureau for the Cook County State's Attorney's Office, Amy Crawford, stated in her written legal opinion to Commissioner Wendt:

Although the term "public business" is not defined in OMA, case law indicates that OMA's provisions are to be construed in favor of openness. We are unaware of any case law that would support an interpretation that OMA only applies to certain "core" decisions of the public body, but not to discussions and decisions about the body's policies. Moreover, whether a gathering of Board of Review members is formal or informal is irrelevant to the OMA analysis. [Citation.]^[14]

Ms. Crawford cited *People ex rel. Difanis v. Barr*, 83 Ill. 2d 191, 200 (1980), in which the Illinois Supreme Court explained that the General Assembly "intended to include unofficial or informal meetings within the coverage of the Act." Ms. Crawford's legal opinion concluded that "meetings to discuss Board of Review policy should be treated as subject to OMA."¹⁵

With respect to the Board Majority's argument that the Board only is subject to OMA when it convenes as a quasi-adjudicative body to conduct particular property valuation functions prescribed under the Property Tax Code, OMA defines "[q]uasi-adjudicative body" as "an administrative body charged by law or ordinance with the responsibility to conduct hearings, receive evidence or testimony and make determinations based thereon, but does not include local electoral boards when such bodies are considering petition challenges." 5 ILCS 120/2(d) (West 2020), as amended by Public Acts 102-558, effective August 20, 2021; 102-237, effective January 1, 2022. OMA permits quasi-adjudicative bodies to discuss evidence or testimony in closed session provided they make publicly available written decisions setting forth the determinative reasoning. 5 ILCS 120/2(c)(4) (West 2020), as amended by Public Acts 102-558, effective August 20, 2021; 102-237, effective January 1, 2022. OMA does not contain any other provisions that address quasi-adjudicative bodies or limit the requirements of OMA for quasi-

¹³5 ILCS 120/1 (West 2020).

¹⁴E-mail from Amy Crawford, Deputy Chief, Civil Actions Bureau, Cook County State's Attorney's Office, to Commissioner Wendt (March 31, 2021).

¹⁵E-mail from Amy Crawford, Deputy Chief, Civil Actions Bureau, Cook County State's Attorney's Office, to Commissioner Wendt (March 31, 2021).

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adjudicative bodies compared to other public bodies subject to the Act. Notably, section 2(c)(1) of OMA (5 ILCS 120/2(c)(1) (West 2020), as amended by Public Acts 102-558, effective August 20, 2021; 102-237, effective January 1, 2022) authorizes public bodies to discuss the hiring of an attorney in closed session, but such discussions are permissible only if the public body complies with the statutory procedure for entering closed session¹⁶ and the other requirements of the Act. It is undisputed that the Board did not comply with those requirements in connection with the March 10, 2021, private discussion concerning the hiring of outside counsel and other matters of public business.

Lastly, this office notes that the Board's June 29, 2021, meeting agenda contained an item for an "Amendment to Cook County Board of Review Ethics Policy."¹⁷ The Board Majority's argument about the restrictions of the Property Tax Code does not reconcile why the Board was able to conduct that open meeting discussion if it was not authorized to hold an open meeting discussion concerning the recommended policy changes outlined by the Inspector General's Office.

Under the circumstances at issue here—all three commissioners gathering to discuss matters of public business such as hiring outside counsel and job descriptions for employees related to the Inspector General's Office's recommended policy changes—the Public Access Bureau concludes that the Board held an improper private meeting on March 10, 2021. This office asks the Board to refrain from deliberating about Board policy changes and any other matters of public business outside of a properly-noticed open meeting.

The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. This letter shall serve to close this matter. If you have any questions, please contact me at joshua.jones@ilag.gov.

Very truly yours,



JOSHUA M. JONES
Deputy Bureau Chief
Public Access Bureau

2021-PAC-S-0135 o 2a meeting improper co

¹⁶5 ILCS 120/2a (West 2020).

¹⁷Cook County Board of Review, Agenda Item V, Motion 2, New Business, Motion 2: Amendment to Cook County Board of Review Ethics Policy (June 29, 2021).



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

April 4, 2022

Via electronic mail

Mr. Todd Thielmann
Certified Illinois Assessing Officer
First Assistant/Chief of Staff – Commissioner Tammy Wendt
Cook County Board of Review
118 North Clark Street, Room 601
Chicago, Illinois 60602
Todd.Thielmann@cookcountyil.gov

The Honorable Larry Rogers, Jr.
Chairman
Cook County Board of Review
118 North Clark Street
Chicago, Illinois 60602

RE: OMA Request for Review – 2022 PAC 69742

Dear Mr. Thielmann and Chairman Rogers:

This determination is issued pursuant to section 3.5(e) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(e) (West 2020)). For the reasons that follow, the Public Access Bureau concludes that the Cook County Board of Review (Board) violated the requirements of OMA.

On February 3, 2022, Mr. Todd Thielmann submitted this Request for Review alleging that the Board had failed to adhere to the training requirements under section 1.05 of OMA (5 ILCS 120/1.05 (West 2020), as amended by Public Act 102-558, effective August 20, 2021). In his Request for Review, Mr. Thielmann identified himself as the First Assistant/Chief of Staff to Board Commissioner Tammy Wendt.

On February 16, 2022, this office sent a copy of the Request for Review to the Board and requested that it provide a detailed response to the allegations in the Request for Review, together with copies of the most recent certificates of completion for members of the Board and the Board's OMA designee. Later that same day, Mr. Thielmann forwarded a copy of

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the Request for Review to, whom he alleged to be, Board Chairman Larry Rogers' attorney.¹ Having received no response, on March 17, 2022, this office again sent a copy of the Request for Review to the Board and requested the same materials. As of the date of this determination, this office has not received a response from the Board.

DETERMINATION

As an initial matter, section 3.5(b) of OMA (5 ILCS 120/3.5(b) (West 2020)) unambiguously provides that "[w]ithin 7 working days after receipt of the request for review, the public body **shall provide copies of the records requested and shall otherwise fully cooperate with the Public Access Counselor.**" (Emphasis added.) The Board's failure to respond to this office has hampered our ability to review Mr. Thiemann's allegation.

OMA Training

Section 1.05(b) of OMA (5 ILCS 120/1.05(b) (West 2020), as amended by Public Act 102-558, effective August 20, 2021) provides the requirements for members of public bodies to complete the electronic training program developed by the Public Access Counselor:

Except as otherwise provided in this Section, each elected or appointed member of a public body subject to this Act who becomes such a member after January 1, 2012 (the effective date of Public Act 97-504) shall successfully complete the electronic training curriculum developed and administered by the Public Access Counselor. For these members, the training must be completed **not later than the 90th day after** the date the member:

- (1) takes the oath of office, if the member is required to take an oath of office to assume the person's duties as a member of the public body; or
- (2) otherwise assumes responsibilities as a member of the public body, if the member is not required to take an oath of office to assume the person's duties as a member of the governmental body.

¹E-mail from Todd (Thielmann) to "kkrafthefer@ancelglink.com" (February 16, 2022).

Each member successfully completing the electronic training curriculum shall file a copy of the certificate of completion with the public body.

* * *

The failure of one or more members of a public body to complete the training required by this Section does not affect the validity of an action taken by the public body.

An elected or appointed member of a public body subject to this Act who has successfully completed the training required under this subsection (b) and filed a copy of the certificate of completion with the public body is not required to subsequently complete the training required under this subsection (b). (Emphasis added.)

The Board has failed to respond to this office's letters of further inquiry or otherwise provide information to assist in our review of these allegations. A review of the Board's website reflects that the Board is comprised of three individuals: Commissioner Larry R. Rogers, Jr., Commissioner Michael Cabonargi, and Commissioner Tammy Wendt.² However, it is unclear on what date each of the commissioners took their oath of office or otherwise assumed their duties as commissioners. Based on our review of electoral data that is publicly available from the Cook County Clerk's Office,³ it appears that Commissioners Rogers and Cabonargi were last elected to the Board in November 2018, and that Commissioner Wendt was last elected to the Board in November 2020. Therefore, at the time Mr. Thielmann submitted this Request for Review, more than 90 days had passed from the time at which each of the commissioners would have taken their oath of office or otherwise assumed their responsibilities on the Board.

Further, as noted above in section 1.05 of OMA, the Public Access Counselor is tasked with developing and administering an annual online OMA training curriculum for designated employees, officers, and public body members. Although the Public Access Bureau does not solicit or retain certificates of completion for such members, this office maintains an internal database that catalogs past registrants by name and public body for registrants who started and/or completed the training curriculum prior to March 1, 2021. Because the Board has failed to furnish us with copies of the certificates of completion reflecting that all members of the

²<https://www.cookcountyboardofreview.com/commissioners>.

³Cook County Clerk's Office, Directory of Elected Officials, *available at* <https://www.cookcountyclerkil.gov/elections/directory-elected-officials> (last visited March 30, 2022).

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Board have successfully and timely completed the OMA electronic training, this office conducted individual searches of that database using the last names of each of the three commissioners and a separate general search using "Cook County Board of Review". However, those searches did not identify any of the three commissioners as having registered or taken the online OMA training provided by this office prior to March 1, 2021. Accordingly, based on the available information, it appears that the Board has not complied with the requirements of section 1.05(b) of OMA.

This office directs each commissioner, to the extent they have not already done so, to register for and successfully complete the Public Access Counselor's electronic training curriculum and file a copy of their certificate of completion with the Board. Because the plain language of section 1.05(b) provides that any violation of the training requirements does not invalidate any action taken by the Board, no further remedy is necessary. However, this office cautions the Board to comply with all of the training requirements of OMA in the future.

The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. If you have questions, you may contact me at Christopher.Boggs@ilag.gov or (217) 785-7438. This letter serves to close this file.

Very truly yours,

Christopher R. Boggs

CHRISTOPHER R. BOGGS
Supervising Attorney
Public Access Bureau

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April 6, 2022

Via: E-Mail

Steven Silverman (steven.silverman@ilag.gov)
Bureau Chief
Public Access Bureau
Office of the Illinois Attorney General
500 S. Second Street
Springfield, Illinois 62701

RE: SUPPLEMENTAL RESPONSE TO REQUEST FOR REVIEW 2021-PAC S-0090

Dear Bureau Chief Silverman:

Please let this serve as the supplemental response of the Cook County Board of Review Commissioner Larry R. Rogers, Jr. and Commissioner Michael M. Cabonargi (hereinafter, "Commissioners") regarding Request for Review 2021-PAC-S-0090 ("Request for Review").

In the Request for Review, Mr. Thielmann, the cousin of and chief of staff for Cook County Board of Review Commissioner Tammy Wendt, alleges that the Commissioners discussed public business outside of a Board meeting held in accordance with the requirements of OMA. In support of his allegations, Thielmann tendered a memorandum wherein the Commissioners endorse and recommend an amendment to the Illinois Property Tax Code (35 ILCS 200/1-1 *et seq.*).

Based on the reasons that follow, these allegations, even if true, do not constitute a violation of the OMA, because the actions alleged were taken by the Commissioners in their individual, rather than official, capacities.

Three issues are paramount to the resolution of this matter. First, and notably, individuals do not lose their First Amendment rights merely because they are elected officials. In this instance, the two Commissioners, as individuals, were engaging in their protected First Amendment right to endorse legislation. This action was not an action of the Cook County Board of Review. Had the Board held a meeting to discuss legislation, it would have been inappropriate. While the Commissioners ultimately issued their correspondence on April 5, 2021 using Board stationery, that is not a violation of the OMA.

Second, the meaning of "public business" under the OMA's definition of "meeting" in section 1.02. 5 ILCS 120/1.02. Specifically, the OMA defines a meeting as "any gathering [...], of a majority of a quorum of the members of a public body *held for the purpose of discussing public business [...]*" Id. [Emphasis added]. In response to this Request for Review, the Commissioners maintain that their individual, personal advocacy for legislation (i.e., a possible amendment of the Property Tax Code) does not relate to any "public business" that the Cook

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County Board of Review would have the ability to engage in. Therefore, even if the Commissioners met for the purpose of advocating for a legislative change, this meeting would not constitute a public meeting within the meaning of the OMA, and thus the Commissioners did not violate the OMA. The Cook County Board of Review does not possess the statutory power to lobby for legislation, so a vote at an open meeting of the Cook County Board of Review to support legislation would be inappropriate and outside the statutory jurisdiction of the Board of Review.

Third, the Board of Review is a quasi-adjudicative body that only comes in existence to consider property tax complaints. Unlike most public bodies which are not quasi-adjudicative in nature, it does not have the ability or power to hold a "meeting" for any other purpose. Accordingly, it did not violate the Open Meetings Act.

As discussed in our initial submission, the Board of Review is distinct from other public bodies, in that it has a very narrow statutory purpose. The Board of Review is established in the Illinois Property Tax Code. Its duties are set forth at 35 ILCS 200/16-95.¹

Mr. Thielmann's confusion apparently stems from the type of body the Board of Review is. It is not a legislative body. It is a quasi-judicial body vested with only with responsibilities to make rulings on property tax cases. The Board of Review comes into existence when taxpayers file assessment complaints. It is not a public body that is continuously in session; it exists for limited purposes. It holds public hearings on such complaints, and that is all that it does. It is not empowered to do anything else, such as consider legislative changes.

As Section 16-95 of the Property Tax Code specifies, boards of review are statutory creatures with very narrow functions. While the hearings they hold must be open and are subject to the Open Meetings Act, the Board has no statutory power to decide it is going to hold a general

¹ In counties with 3,000,000 or more inhabitants, until the first Monday in December 1998, the board of appeals in any year shall, on complaint that any property is overassessed or underassessed, or is exempt, review and order the assessment corrected.

Beginning the first Monday in December 1998 and thereafter, in counties with 3,000,000 or more inhabitants, the board of review:

(1) shall, on written complaint of any taxpayer or any taxing district that has an interest in the assessment that any property is overassessed, underassessed, or exempt, review the assessment and confirm, revise, correct, alter, or modify the assessment, as appears to be just; and

(2) may, upon written motion of any one or more members of the board that is made on or before the dates specified in notices given under Section 16-110 for each township and upon good cause shown, revise, correct, alter, or modify any assessment (or part of an assessment) of real property regardless of whether the taxpayer or owner of the property has filed a complaint with the board; and

(3) shall, after the effective date of this amendatory Act of the 96th General Assembly, pursuant to the provisions of Sections 9-260, 9-265, 2-270, 16-135, and 16-140, review any omitted assessment proposed by the county assessor and confirm, revise, correct, alter, or modify the proposed assessment, as appears to be just.

35 ILCS 200/16-95.

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“meeting” to discuss and endorse or oppose legislation proposed by the General Assembly, because meeting to discuss legislative changes would not be a meeting to discuss the Board’s “public business” within the meaning of Section 1.02 of the OMA. Indeed, Section 16-105 of Property Tax Code states that:

“In counties with 3,000,000 or more inhabitants, the board [...] shall meet on or before the second Monday in September in each year for the purpose of revising the assessment of property as provided for in this Code. The meeting may be adjourned from day to day as may be necessary. All hearings conducted by the board under this Code shall be open to the public [...].

35 ILCS 200/16-105. [Emphasis added].

Because the Board of Review is a statutory creature, it can only perform those functions delegated by statute. The budget for the Board of Review is approved by Cook County – so Cook County holds public meetings related to the Board of Review’s budget; not the Board of Review. The Board of Review has no power whatsoever to do that. Likewise, the Board of Review does not have power to adopt legislative changes. There is a specific statutory notice requirement that the Board of Review must provide about its meetings.² Additionally, section 16-125 of the Property Tax Code addresses hearings.³

² In counties with 3,000,000 or more inhabitants, at least one week before its meeting to revise and correct assessments, the board of appeals (until the first Monday in December 1998 and the board of review beginning the first Monday in December 1998 and thereafter) shall publish a notice of the time and place of that meeting. The board shall, from time to time, publish notices which shall specify the date and place at which complaints may be filed for those townships or taxing districts for which property assessments have been completed by the county assessor, and which will then be considered for revision and correction at that time. All notices required by this Section may provide for a revision and correction at the specified time of one or more townships or taxing districts. All such notices shall be published once in at least one newspaper of general circulation published in the county. The board at the time and place fixed, and upon notice as provided in this Section, may receive and hold hearings on all those complaints and revise and correct assessments within those townships or taxing districts. Taxpayers shall have at least 20 days after the date of publication of the notice within which to file complaints. 35 ILCS 200/16-110. [Emphasis added].

³ In counties with 3,000,000 or more inhabitants, complaints filed with the board of appeals (until the first Monday in December 1998 and the board of review beginning the first Monday in December 1998 and thereafter) shall be classified by townships. All complaints shall be docketed numerically, in the order in which they are presented, as nearly as possible, in books or computer records kept for that purpose, which shall be open to public inspection. The complaints shall be considered by townships until they have been heard and passed upon by the board. After completing final action on all matters in a township, the board shall transmit such final actions to the county assessor.

A hearing upon any complaint shall not be held until the taxpayer affected and the county assessor have each been notified and have been given an opportunity to be heard. All hearings shall be open to the public and the board shall sit together and hear the representations of the interested parties or their representatives. An order for a correction of any assessment shall not be made unless both commissioners of the board, or a majority of the members in the case of a board of review, concur therein, in which case, an order for correction shall be made in open session and entered in the records of the board. When an assessment is ordered corrected, the board shall transmit a computer

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Reviewing the above-cited provisions, in addition to the remainder of the Illinois Property Tax Code, it becomes clear that the Board of Review does not possess authority to have meetings for any purpose other than its statutory functions. This is unlike, for example, Illinois municipalities which have power conferred upon them by the Illinois Municipal Code to call and hold public meetings. There is no requirement that the Board of Review meet in open session to discuss, endorse or oppose legislation; the Board of Review has no statutory authority to have such meetings, nor to make such endorsements. It has an opening session and a closing session for each tax year; and then hearings on complaints. Consequently, even if the Commissioners met to discuss legislative changes to the Property Tax Code, this discussion would not constitute a meeting to discuss public business within the aegis of OMA section 1.02.

Reviewing Mr. Theilmann's response, it appears that the crux of his grievance towards the Commissioners in this Request for Review centers on the Commissioners using the letterhead of the Board of Review when they expressed their opinion regarding the legislation. While the use of letterhead may have the appearance of implying that the Board of Review had taken action on the legislation, that implication is false and clearly rebuttable, especially considering the fact that the Board of Review does not possess the authority to lobby or support or oppose legislation, much less to hold a meeting for that purpose under the OMA. Furthermore, the use of letterhead is not a violation of the OMA. Because the Board of Review does not have the legal ability to do such, it would be very odd to find that the Board of Review has to hold an open meeting to accomplish something it has no legal ability to do.

For these reasons, the correspondence that the Commissioners submitted does not relate to public business by the Board and did not constitute a violation of the OMA.

If you have any additional questions regarding our response to this Request for Review or if I can be of further assistance, please contact me at your convenience.

Sincerely yours,

printout of the results, or make and sign a brief written statement of the reason for the change and the manner in which the method used by the assessor in making the assessment was erroneous, and shall deliver a copy of the statement to the county assessor. Upon request the board shall hear any taxpayer in opposition to a proposed reduction in any assessment.

The board may destroy or otherwise dispose of complaints and records pertaining thereto after the lapse of 5 years from the date of filing.

35 ILCS 200/16-125. [Emphasis added].

ANCEL GLINK

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Keri G. Kraft



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

October 24, 2022

Via electronic mail

Mr. John Lartz
FOIA Officer
Cook County Board of Review
118 North Clark Street
Chicago, Illinois 60602
CCBOR.FOIA@cookcountyil.gov

RE: FOIA Request for Review – 2022 PAC 74033
Requester: Mr. Todd Thielmann
Date of FOIA Request: October 6, 2022

Dear Mr. Lartz:

The Public Access Bureau has received a Request for Review under section 9.5(a) of the Freedom of Information Act (FOIA)¹ alleging that the Cook County Board of Review has not responded to the FOIA request listed above. Copies of Mr. Todd Thielmann's FOIA request and his Request for Review by this office are enclosed.

As required by section 9.5(c) of FOIA,² please advise this office within seven (7) business days whether you have received and responded to this FOIA request. If you have received the request from the requester but have not yet responded, please respond to the requester and provide a copy of your response to this office. A proper response under section 3(d) of FOIA³ may resolve this matter. To the extent that the request is denied, however, the requester may file a new Request for Review challenging that denial.

¹5 ILCS 140/9.5(a) (West 2020).

²5 ILCS 140/9.5(c) (West 2020).

³Section 3(d) of FOIA (5 ILCS 140/3(d) (West 2020)) requires a public body to "promptly, either comply with or deny a request for public records within 5 business days after its receipt of the request, unless the time for response is properly extended under subsection (e) of this Section."

Mr. John Lartz
October 24, 2022
Page 2

Please contact me at (217) 843-0564 or Laura.Harter@ilag.gov if you have questions or would like to discuss this matter. Thank you.

Very truly yours,

A handwritten signature in cursive script that reads "Laura S. Harter".

LAURA S. HARTER
Deputy Bureau Chief
Public Access Bureau

Attachment

cc: *Via electronic mail*
Mr. Todd Thielmann
75 South Country Squire Road
Palos Heights, Illinois 60463
toddthielmann@gmail.com

From: [Todd Thielmann](#)
To: [Public Access](#)
Subject: [EXTERNAL] Fwd: FOIA request
Date: Thursday, October 20, 2022 11:52:42 AM
Attachments: [FOIA communications between LR and MC.pdf](#)

FOIA RFR,

I requested the contact records of Commissioners Cabonargi and Rogers from the Cook County Board of Review for a specific period of time. As of today, I have not received a response from the Cook County Board of Review. FOIA is attached.

Thank you,

Todd Thielmann

----- Forwarded message -----

From: **Todd Thielmann** <toddthielmann@gmail.com>
Date: Thu, Oct 6, 2022 at 1:58 PM
Subject: FOIA request
To: <CCBOR.FOIA@cookcountyil.gov>

FOIA Officer,

Please see the attached FOIA request. I would like to point out that a detailed billing summary of text message contact numbers can be retrieved from the cell service provider. I understand the content of the individual texts can't be retrieved.

Regards,
Todd Thielmann



COOK COUNTY
BOARD OF REVIEW

No. _____

REQUEST FOR RECORDS IN ACCORDANCE WITH THE FREEDOM OF INFORMATION ACT

1) I am requesting to: Inspect _____ Copy ☒ the following public records

All communications between Commissioner Rogers & Cabonurgi for the period of 10/1/2020

(Please be specific)

and 5/1/2021. Include all texts, emails or hand written notes. Each Commissioner has a county issued cell phone so be sure to include all points of contact contained in detailed billing notes.

2) Will this material be used for commercial purposes? Yes _____ No ☒

- Commercial use means the use of any part of a public record or records, or information derived from public records, in any form, for sale, resale, or solicitation or advertisement for sales or services.
- It is a violation of the Freedom of Information Act to knowingly obtain a public record for a commercial purpose without disclosing that it is for a commercial purpose.

REQUESTOR CONTACT INFORMATION:

Todd Thielmann

NAME

75 S. Country Squire Rd

ADDRESS

toddthielmann@gmail.com

EMAIL ADDRESS

TELEPHONE NUMBER (with area code)

COMPANY NAME (if applicable)

Palos Heights IL 60463

CITY/STATE/ZIP

FAX NUMBER

☒ Todd Thielmann

SIGNATURE

- For non-commercial requests, a response will be made within 5 business days after receipt of this request. The response may be extended for an additional 5 business days; you will receive a written response stating the reason for the extension.
- For all commercial requests, a response will be made within 21 business days after receipt of this request with an estimated completion date and a fee estimate. Unless the records are exempt, the request will be completed within a reasonable time period based on the size and complexity of the request. Priority shall be given to records requested for non-commercial purposes.
- If your request is denied, you will receive a written response stating the reason for the denial.
- Receipt of fee payment is required before copying of requested records is initiated.

FOR OFFICE USE ONLY:

Request Received By: _____

(BOR Employee)

Department: _____

Date: _____

FOR OFFICE USE ONLY:

Request to inspect _____ copy _____ has been:

Approved / Denied (Circle one)

_____ # pgs copied **TOTAL FEES \$** _____

(Pgs 1-50 @ no cost/Additional pgs @ \$0.15 per page)

REQUESTOR ACKNOWLEDGEMENT OF RECEIPT OF DOCUMENTS (COMPLETE AT PICK-UP ONLY)

I hereby confirm that I have received the documents provided to me by the Cook County Board of Review.

(Requestor's signature) _____ Date: _____

RE: [EXTERNAL] 2021 PAC 68344

1 message

Silverman, Steven <Steven.Silverman@ilag.gov>
To: Todd Thielmann <toddthielmann@gmail.com>

Fri, Oct 7, 2022 at 3:14 PM

I did request emails and text messages but did not receive any; if you do I'd be curious to see them if you wouldn't mind passing them along, though we don't need them to resolve the complaint because it's undisputed that the commissioners discussed the topic - the argument as I understand is that such discussions aren't subject to OMA because they don't pertain to public business.

Thanks

Steve

From: Todd Thielmann <toddthielmann@gmail.com>
Sent: Friday, October 7, 2022 2:54 PM
To: Silverman, Steven <Steven.Silverman@ilag.gov>
Subject: Re: [EXTERNAL] 2021 PAC 68344

BC Silverman,

I am not sure if you had requested the communication records of Commissioners Rogers and Cabonargi prior to the release of their joint statement regarding the legislation that they were advocating for so I filed a FOIA request for all the records of their communication. The detailed billing by the cell provider should have the phone numbers of any text messaging that was done between the 2 Commissioners.

You may have already done this but I will forward any records I receive.

Regards,

Todd

On Tue, Oct 4, 2022 at 5:04 PM Silverman, Steven <Steven.Silverman@ilag.gov> wrote:

This is still on my radar but unfortunately I haven't been able to complete the review, I'll try to do so in the relatively near future but it's been very busy so I can't give a more specific time frame. Thanks again for your patience

From: Todd Thielmann <toddthielmann@gmail.com>
Sent: Tuesday, October 4, 2022 12:46 PM
To: Silverman, Steven <Steven.Silverman@ilag.gov>
Subject: Re: [EXTERNAL] 2021 PAC 68344

Any update? County cell phone records for Commissioner Rogers and Cabonargi should've been requested to determine if there was any communication between the 2 Commissioners. Also the official communications of Rep. Tarver.

Thanks,

Todd

312-656-0992

On Wed, Aug 24, 2022 at 5:43 PM Silverman, Steven <Steven.Silverman@ilag.gov> wrote:

Hello Mr. Thielman – thanks for the updated contact information, I'll make a note. I know this has been pending for some time and we'll aim to get it resolved within the next few weeks, thank you for your patience.

Steve

From: Todd Thielmann <toddthielmann@gmail.com>
Sent: Wednesday, August 24, 2022 12:56 PM
To: Silverman, Steven <Steven.Silverman@ilag.gov>
Subject: [EXTERNAL] 2021 PAC 68344

BC Silverman,

It's been over a year since my original RFR regarding reporting of a violation of OMA by the Cook County Board of Review. My job status with the County has changed and I don't have access to my old email address. Please send all correspondence to my new email address. toddthielmann@gmail.com

Please provide the status of my complaint.

Regards,

Todd Thielmann

312-656-0992



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

December 15, 2022

Via electronic mail

Mr. Todd Thielmann
toddthielmann@gmail.com

Via electronic mail

Ms. Keri-Lyn J. Krafthefer
Ancel Glink
A Professional Corporation
140 South Dearborn Street, Suite 600
Chicago, Illinois 60603
kkrafthefer@ancelglink.com

RE: OMA Request for Review – 2021-PAC-C-0090/2021 PAC 68344

Dear Mr. Thielmann and Ms. Krafthefer:

This determination is issued pursuant to section 3.5(e) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(e) (West 2020)).

On April 22, 2021, Mr. Todd Thielmann, who at the time served as First Assistant to Cook County Board of Review (Board) Commissioner Tammy Wendt, submitted a Request for Review alleging that Commissioner Larry Rogers, Jr., and Commissioner Michael Cabonargi violated OMA by holding policy discussions outside of Board meetings held in compliance with the Act. Mr. Thielmann attached a copy of a memorandum on Board letterhead that expressed support for a proposed amendment to the Property Tax Code¹ which would require commissioners to be licensed attorneys. He also attached an e-mail from the Civil Actions Bureau of the Cook County State's Attorney's Office which opined that discussions of internal "policy should be treated as subject to OMA."²

¹35 ILCS 200/1-1 *et seq.* (West 2020).

²E-mail from Amy Crawford, Deputy Chief, Civil Actions Bureau, Cook County State's Attorney's Office, to Tammy Wendt, Commissioner, Cook County Board of Review (April 1, 2021).

Mr. Todd Thielmann
Ms. Keri-Lyn J. Krafthefer
December 15, 2022
Page 2

On May 7, 2021, the Public Access Bureau sent a copy of the Request for Review to Commissioner Rogers and Commissioner Cabonargi (Board Majority) and asked for a response to the allegation that they engaged in communications about the proposed amendment that constitute a "meeting" without complying with OMA. This office requested an explanation of how the memorandum was developed and asked for copies of any related electronic communications. On July 24, 2021, counsel for the Board Majority responded that the memorandum did not pertain to any official business or policy of the Board and therefore any communications concerning the memorandum did not constitute meetings held in violation of OMA; no electronic communications were provided. On August 9, 2021, Mr. Thielmann submitted a reply. The Board Majority supplemented its response on November 16, 2021, and Mr. Thielmann replied on November 29, 2021.

On January 5, 2022, this office asked counsel for the Board Majority to clarify whether its argument that any discussions about the memorandum were not subject to OMA was an acknowledgment that such discussions occurred; if not, this office again requested an explanation and documentation about how the memorandum was developed. On April 6, 2022, counsel for the Board Majority submitted an additional response contending that "these allegations, even if true, do not constitute a violation of the OMA, because the actions alleged were taken by the Commissioners in their individual, rather than official capacities."³ An Assistant Attorney General in the Public Access Bureau replied that this office would "proceed with the understanding that it is undisputed such discussion occurred but the two Board members are reiterating/[supplementing] the assertion that it didn't violate OMA because it didn't pertain to public business. Let me know if I'm missing something"⁴ We did not receive a response.

DETERMINATION

The intent of OMA is "to ensure that the actions of public bodies be taken openly and that their deliberations be conducted openly." 5 ILCS 120/1 (West 2020). Section 1.02 of OMA (5 ILCS 120/1.02 (West 2020)) defines "public body" as including:

all legislative, executive, administrative or advisory bodies of the State, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees or commissions of this State, and any subsidiary bodies of any of the foregoing including but limited to committees and subcommittees which are supported in whole or in

³Letter from Keri-Lyn Krafthefer, Ancel Glink, to Steven Silverman, Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General (April 6, 2022), at 1.

⁴E-mail from [Steve] Silverman to Yevgeniy Bolotnikov and Keri-Lyn Krafthefer (April 7, 2022).

part by tax revenue, or which expend tax revenue, except the General Assembly and committees or commissions thereof. "Public body" includes tourism boards and convention or civic center boards located in counties that are contiguous to the Mississippi River with populations of more than 250,000 but less than 300,000. "Public body" includes the Health Facilities and Services Review Board. "Public body" does not include a child death review team or the Illinois Child Death Review Teams Executive Council established under the Child Death Review Team Act, an ethics commission acting under the State Officials and Employees Ethics Act, a regional youth advisory board or the Statewide Youth Advisory Board established under the Department of Children and Family Services Statewide Youth Advisory Board Act, or the Illinois Independent Tax Tribunal.

In its initial response to this office, the Board Majority argued that the public business of the Board concerns receiving evidence, conducting hearings, and internal policy changes. The response asserted that the memorandum discussing a proposed legislative change pertains to the public business of the General Assembly rather than the Board, and that Commissioners Rogers and Cabonargi have a constitutional right to discuss and advocate for legislation in their individual capacities. The Board Majority's supplemental response emphasized that the Board is a quasi-adjudicative body with limited statutory duties that do not include "authority to lobby or support or oppose legislation. Because the Board of Review does not have the legal ability to do such, it would be very odd to find that the Board of Review has to hold an open meeting to accomplish something it has no legal ability to do."⁵ While the response acknowledged that using the Board's letterhead on the memorandum may have created an inference that the Board Majority had taken action on the legislation, it maintained the Board Majority couldn't have violated OMA in connection with that subject because it lacked statutory authority to hold meetings on legislation or to endorse legislation.

In reply to that response, Mr. Thielmann stated: "Individually, Commissioners Rogers and Carbonargi have every right to advocate for any legislation but when they do it collectively, under their titles and submit memorandums on Cook County Board of Review letterhead it has every appearance of official business."⁶ He also disputed legislative amendments are not public business of the Board, adding that "[t]he Board of Review has and will continue to lobby for change when and where it sees fit. In fact, the Board of Review is

⁵Letter from Keri-Lyn Krafthefer, Ancel Glink, to Steven Silverman, Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General (November 16, 2021), at 4.

⁶E-mail from Todd Thielmann to [Steve] Silverman (November 29, 2021).

currently working with legislators to change details of the Illinois Property Tax Code relating to the Property Tax Appeal Board."⁷

"Public business" for purposes of OMA is not limited to items on which the Board necessarily intends to vote. The Act defines "meeting" as "any gathering of a majority of a quorum of the members of a public body held for the purpose of **discussing** public business." (Emphasis added.) 5 ILCS 120/1.02 (West 2020). OMA does not define "public business." In *City of Champaign v. Madigan*, 2013 IL App (4th) 120662, ¶31, 992 N.E.2d 629, 637 (2013), the Illinois Appellate Court examined the meaning of the term "public business" in the context of a Freedom of Information Act (FOIA) (5 ILCS 140/1 *et seq.* (West 2012)) request involving communications sent and received by members of a public body during an open meeting. The court found that the term "public business" has a plain and ordinary meaning: "to qualify as a public record a communication must first pertain to 'business or community interests as opposed to private affairs.'" *City of Champaign*, 2013 IL App (4th) 120662, ¶31, 992 N.E.2d at 637 (quoting Merriam–Webster's Collegiate Dictionary 941 (10th ed. 2000)). The meaning in FOIA is relevant to the meaning in OMA because "[b]oth statutes ensure the public's access to information concerning the conduct of public bodies, except in limited circumstances, and must be construed together." *Copley Press, Inc. v. Board of Education for Peoria School District No. 150*, 359 Ill. App. 3d 321, 325, 834 N.E.2d 558, 562 (3d Dist. 2005).

A proposed amendment that would require commissioners to be licensed as attorneys to serve on the Board does not concern private affairs. The Board Majority's memorandum states that the "amendment acknowledges that as the courts have held a person must be a licensed attorney to represent a party before the Cook County Board of Review – because practice before the Board is the practice of law – then the Commissioners * * * themselves should be attorneys."⁸ The memorandum further asserts that the amendment "would improve the ethical safeguards of the Cook County Board of Review[]" and that "[t]he public agrees and the voters want this amendment. As a result of the November 2020 election, for the first time in its history the voters have elected attorneys for all three Commissioners[.]"⁹ The qualifications for eligibility to serve on the Board and the justifications for the proposed change outlined in the memorandum unequivocally pertain to community interests and the Board's interests in conducting public business. This office's reasoning in 2021 PAC S-0135, which

⁷E-mail from Todd Thielmann to [Steve] Silverman (November 29, 2021).

⁸Memorandum by Hon. Larry Rogers, Jr., Commissioner, Cook County Board of Review and Hon. Michael Cabonargi, Commissioner, Cook County Board of Review (undated), at 2.

⁹Memorandum by Hon. Larry Rogers, Jr., Commissioner, Cook County Board of Review and Hon. Michael Cabonargi, Commissioner, Cook County Board of Review (undated), at 2.

concluded that the Board's discussions of policy changes were subject to the requirements of OMA, is equally applicable to this matter:

To construe OMA as permitting a public body to hold a private discussion of any matter pertaining to the public body's interests or community interests as long as the discussion does not involve deliberations that culminate in a formal vote authorized by a statute narrowly defines "public business" as limited to matters upon which a public body is expressly empowered to take "final action." That interpretation is unsupported by case law, and adopting it would undermine the intent of the General Assembly articulated in section 1 of OMA:¹⁰ "The General Assembly * * * declares it to be the public policy of this State that its citizens shall be given advance notice of and the right to attend all meetings at which **any business of a public body is discussed** or acted upon **in any way.**" (Emphasis added to section 1 of OMA in original.). Ill. Att'y Gen. PAC Req. Rev. Ltr. S-0135, issued January 19, 2022, at 6-7.

With respect to the Board Majority's argument that the Board only is subject to OMA when it convenes as a quasi-adjudicative body to conduct particular property valuation functions prescribed under the Property Tax Code, we reiterate the conclusion in 2021 PAC S-0135 that the requirements of OMA are not so limited and apply to the Board whenever at least two of its three members gather for the purpose of discussing public business:

OMA defines "[q]uasi-adjudicative body" as "an administrative body charged by law or ordinance with the responsibility to conduct hearings, receive evidence or testimony and make determinations based thereon, but does not include local electoral boards when such bodies are considering petition challenges." [Citation.] OMA permits quasi-adjudicative bodies to discuss evidence or testimony in closed session provided they make publicly available written decisions setting forth the determinative reasoning. [Citation.] OMA does not contain any other provisions that address quasi-adjudicative bodies or limit the requirements of OMA for quasi-adjudicative bodies compared to

¹⁰5 ILCS 120/1 (West 2020).

other public bodies subject to the Act. Ill. Att'y Gen. PAC Req.
Rev. Ltr. S-0135, at 7-8.

Lastly, the Board Majority argued that "the two Commissioners, as individuals, were engaging in their protected First Amendment right to endorse legislation. This action was not an action of the Cook County Board of Review. Had the Board held a meeting to discuss legislation, it would have been inappropriate."¹¹ The Board asserted that the two commissioners were acting as individuals rather than in an official capacity. The memorandum that endorses the proposed amendment appears on a letterhead that identifies all three Board commissioners; it indicates that it is from "Hon. Larry Rogers Jr., Commissioner, Cook County Board of Review" and "Hon. Michael Cabonargi, Commissioner Cook County Board of Review" and states, in pertinent part: "For the following reasons, **we support the below amendment** and respectfully request the Illinois Property Tax Code be amended to further professionalize the Cook County Board of Review by adding the requirement that a Commissioner be a licensed attorney."¹² (Emphasis in original.)

Although the memorandum does not present itself as a recommendation by the full Board, it plainly was submitted by the two Commissioners in their capacities as members of the Board—not as private individuals. To be sure, OMA would not be implicated if an individual Board member independently composed and submitted a recommendation about proposed legislation. But the memorandum at issue was submitted by two of the three members of the Board and it is undisputed that they discussed it. For the reasons explained above, such discussions constituted meetings subject to the requirements of OMA because they involved a quorum of the members of the Board and directly pertain to the public business of the Board and community interests. OMA cannot be reasonably construed to permit members of public bodies to circumvent the requirements of the Act by characterizing their discussions of public business as discussions by individuals rather than discussions by public officials. *People ex rel. Difanis v. Barr*, 83 Ill. 2d 191, 200 (1980) (General Assembly "intended to include unofficial or informal meetings within the coverage of the Act."); *see also Acker v. Texas Water Commission*, 790 S.W.2d 299, 300 (Tex. 1990) ("When a majority of a public decisionmaking body is considering a pending issue, there can be no 'informal' discussion. There is either formal consideration of a matter in compliance with the Open Meetings Act or an illegal meeting."). Violations of OMA are not protected by the Constitution. *See St. Cloud Newspaper, Inc., v. District 742 Community Schools*, 332 N.W.2d 1, 7 (Minn. 1983) ("The Open Meeting Law does not violate the rights of

¹¹Letter from Keri-Lyn Krafthefer, Ancel Glink, to Steven Silverman, Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General (April 6, 2022), at 1.

¹²Memorandum by Hon. Larry Rogers, Jr., Commissioner, Cook County Board of Review and Hon. Michael Cabonargi, Commissioner, Cook County Board of Review (undated), at 1.

Mr. Todd Thielmann
Ms. Keri-Lyn J. Krafthefer
December 15, 2022
Page 7

free speech or free assembly under the First Amendment of the United States Constitution. These rights protect expression of ideas, not the right to conduct public business in closed meetings.").

For the reasons stated above, this office concludes that two Commissioners' discussions related to the memorandum violated OMA and requests that members of the Board refrain from discussing proposed legislative amendments and any other matters of public business outside of a properly-noticed open meeting. The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. This letter shall serve to close this matter. If you have any questions, please contact me at (312) 814-6756 or steven.silverman@ilag.gov.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'Steve Silverman', with a long horizontal flourish extending to the right.

STEVE SILVERMAN
Bureau Chief
Public Access Bureau

2021-PAC-S-0090 63844 o 2a meeting improper co

00:35:51.197 --> 00:35:53.847

then the second reason that we.

00:35:53.887 --> 00:35:57.427

Quit talking was entirely your own. You decided.

00:35:57.427 --> 00:36:00.487

and you interpreted the states. Open Meetings act to.

00:36:00.487 --> 00:36:04.267

apply to the border review that is unique.

00:36:04.267 --> 00:36:07.717

an impression it is currently being reviewed.

00:36:07.717 --> 00:36:09.587

by legal officers.

00:36:10.587 --> 00:36:13.757

For anybody who's watching, we are a three person board.

00:36:13.757 --> 00:36:16.127

and if you read the states Open Meetings Act.

00:36:17.347 --> 00:36:20.737

It is not anticipated for three person board even.

00:36:20.737 --> 00:36:24.077

for a five person board. There are exemptions reflecting.

00:36:24.077 --> 00:36:26.907

the fact how difficult it is to operate with a five person board.

00:36:28.427 --> 00:36:31.607

State officials are currently reviewing the application.

00:36:31.607 --> 00:36:34.767

of the Open Meetings Act to a border review, not the.

00:36:34.767 --> 00:36:37.967

Cook County Board of review. All 102 three.

00:36:37.967 --> 00:36:41.007

person boards of review in the state. Because each county has.

00:36:41.007 --> 00:36:44.217

a three person board of review, so interpretation of the open.

00:36:44.217 --> 00:36:47.637

Meetings Act for Cook County applies to every county's.

00:36:47.637 --> 00:36:48.577

board of review.

00:36:50.207 --> 00:36:53.527

So the reason we quit talking was as Commissioner Roger said.

00:36:53.527 --> 00:36:57.287

You said that the Open Meetings act your interpretation.

00:36:57.287 --> 00:37:00.437

was that you could not and would not meet with us.

00:37:00.437 --> 00:37:03.487

and talk with us. The conversation we're having right here.

00:37:03.487 --> 00:37:06.567

I'm happy to have with you. Commissioner went. I just think it's best so we have.

00:37:06.567 --> 00:37:09.597

it behind closed doors. Even if the three of us don't get.

00:37:09.597 --> 00:37:12.887

along. Even if the three of us disagree on everything from.



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

August 16, 2022

Via electronic mail

The Honorable Larry R. Rogers, Jr.
Commissioner
Cook County Board of Review
118 North Clark Street Room 601
Chicago, Illinois 60602
larry.rogers@cookcountyil.gov

RE: OMA Request for Review – 2022 PAC 72702

Dear Mr. Rogers:

The Public Access Bureau has received the enclosed Request for Review in which Mr. Todd Thielmann alleges that the Cook County Board of Review (Board of Review) violated the Open Meetings Act (OMA). Specifically, Mr. Thielmann alleges that the Board of Review violated OMA when two of its members attended a July 19, 2022, meeting of the Finance Committee of the Cook County Board of Commissioners (Finance Committee) and made a presentation concerning the Board of Review's budget status without providing notice of the meeting. We construe these allegations as alleging a possible violation of section 2.02 of OMA (5 ILCS 120/2.02 (West 2020)).¹

In order to further evaluate this matter, please provide a detailed written response to the allegations raised by Mr. Thielmann's Request for Review. In your response, please address whether any gathering of Board of Review members on July 19, 2022, was a "meeting" as defined by section 1.02 of OMA (5 ILCS 120/1.02 (West 2020)).² Please also clarify how many members of the Board of Review gathered on July 19, 2022, and state the total number of

¹Section 2.02 of OMA requires a public body to provide notice of regular and special meetings as sets forth in FOIA.

²Section 1.02 of OMA, in pertinent part, defines a "meeting" as "any gathering, * * * 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[.]"

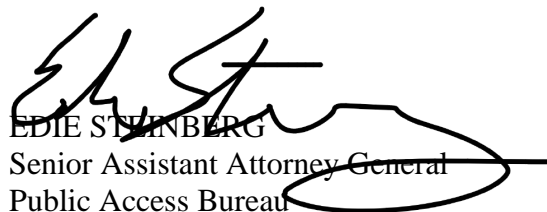
The Honorable Larry R. Rogers, Jr.
August 16, 2022
Page 2

Board of Review members. If a majority of a quorum of Board of Review members attended the Finance Committee's July 19, 2022, meeting, please explain why the Board of Review members attended, whether any members of the Board of Review addressed the Finance Committee, and whether public business of the Board of Review was discussed, deliberated on, or acted upon. Please also address whether the Board of Review posted notice of this meeting. Finally, please also provide this office, for our confidential review, with copies of the notice, agenda, and minutes (draft form, if necessary) from the July 19, 2022, Board of Review meeting, and from the Finance Committee meeting, and any recordings of the meeting.

This information must be submitted to our office within seven (7) business days after receipt of this letter. 5 ILCS 120/3.5(b) (West 2020). As we review this matter, we will notify you if we need additional records or information. Please note that under OMA, "[t]he Public Access Counselor shall forward a copy of the answer or redacted answer, if furnished, to the person submitting the request for review. The requester may, but is not required to, respond in writing[.]" 5 ILCS 120/3.5(c) (West 2020). **If you claim that any portion of your written response is confidential, please send two versions of your response letter: a complete copy for this office's confidential review and a redacted version suitable for this office to forward to the requester.**



Please contact me at (312) 814-5201 or at edie.steinberg@ilag.gov if you have questions or would like to discuss this matter. Thank you.

Very truly yours,


EDIE STEINBERG
Senior Assistant Attorney General
Public Access Bureau

Attachment

cc: *Via electronic mail*
Mr. Todd Thielmann
toddthielmann@gmail.com

From: [Todd Thielmann](#)
To: [Public Access](#)
Subject: [EXTERNAL] Request for Review
Date: Tuesday, July 19, 2022 2:18:03 PM
Attachments:  [IMG 4315.PNG](#)
 [IMG 4319.PNG](#)

PAC Bartelt,

I am requesting a review of the Cook County Board of Review and their continued disregard of the Open Meetings Act.

At approximately 10:00am on July 19th, 2022, the Cook County Board Finance Committee received a presentation from the Cook County Board of Review concerning their 2022 mid-year budget status. Cook County Board of Review Commissioner's Larry Rogers Jr and Michael Cabonargi both attended. Their joint appearance, deliberation and discussion of the Board of Reviews budget, tax appeal session and overall status is a violation of the OMA because a majority quorum was present from the Board of Review. Board of Review Commissioner Wendt had asked the Cook County State's Attorney if the Board of Review was required to post the meeting if another agency had called on the Board of Review to present with a quorum present. It was their opinion that the Board of Review is required to post the meeting even if another agency was holding the meeting. I informed the Chiefs of Staff for both Commissioner Rogers and Cabonargi of the States Attorney opinion. Both Commissioners have been elected officials for over a decade and are also attorneys. In previous RFR's, it was determined that neither Commissioner has taken the required OMA training or had failed to present the proper certifications if they have.

The Board of Review will attempt to defend their position by saying that the meeting was posted by the Cook County Board Finance committee and they are not required to post separately. Based on the Cook County State's Attorney's opinion, and common sense, this would be incorrect. Furthermore, the calendar for the Cook County Finance Committee is extremely unreliable and vague. For example, they had the Cook County Board of Review presenting at 2:00pm on July 19th. They actually presented around 10:00am. How is this performing the "peoples" work in a transparent manner?

I've included some screenshots from the morning meeting, BOR website and County calendar. The meeting is recorded since it was remote and will be available on the County site at some point.

Thank you for your time,

Todd Thielmann
312-656-0992



Midyear Budget Hearing FY 2023

July 19, 2022

BOR Session Public Meeting

UPCOMING BOARD OF REVIEW PUBLIC MEETINGS:

July 11, 2022 (9:30 am) Rescheduled - TBD

September 12, 2022 (9:30 am) Rescheduled -
TBD

December 5, 2022 (9:30 am) Rescheduled -
TBD

PAST BOARD OF REVIEW PUBLIC MEETINGS:

May 26, 2022 (9:30 am)

2022 Board of Review Public Meeting
Notice

2022 Board of Review Public Meeting
Agenda

2022 Board of Review Public Meeting Link

	19	20
AM 31	Cook County Economic Development	Alternative Health
et Overview	Advisory Committee 8:00 AM 31	Response Task Force
AM 31	Members of the public desiring to comment	Requests for public
gs FY2023	at the meeting are directed to provide	sent to
00 AM 31	written testimony to:	maryalice.carroll@c
dent	Info.Edev@cookcountyl.gov	Public comments sh
30 AM 31	Finance Committee 9:00 AM 31	minutes.
fender	Cook County Health	Transportation Comm
:00 AM 31	Finance Committee 10:30 AM 31	Finance Subcommitt
Administrator	Cook County Treasurer	AM 31
:15 AM 31	Finance Committee 11:00 AM 31	
dent Inspector	Sheriff	
1:30 AM 31	Finance Committee 12:00 PM 31	
ourt	Cook County Assessor	
2:30 PM 31	Audit and Compliance Committee of the	
ice	Board of Directors of the Cook County	
1:30 PM 31	Health and Hospitals System 12:00 PM 31	
2:00 PM 31	The live proceedings of the meeting can be	
Commissioners	accessed at	
	https://www.youtube.com/channel/UCj9DT_MVC_u-tOkZA	
	Finance Committee 1:00 PM 31	
	Chief Judge	
	Managed Care Committee of the Board of	
	Directors of the Cook County Health and	
	Hospitals System 1:00 PM 31	
	The live proceedings of the meeting can be	
	accessed at	
	https://www.youtube.com/channel/UCj9DT_MVC_u-tOkZA	
	Finance Committee 2:00 PM 31	
	Board of Review	
	26	27



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

October 27, 2022

Via electronic mail

The Honorable Larry R. Rogers, Jr.
Commissioner
Cook County Board of Review
118 North Clark Street, Room 601
Chicago, Illinois 60602
Larry.rogers@cookcountyil.gov

RE: OMA Request for Review – 2022 PAC 73109
Requester: Mr. Todd Thielmann
SECOND REQUEST

Dear Mr. Rogers:

This our second letter seeking information concerning the above-captioned Request for Review pursuant to the Open Meetings Act (OMA). Enclosed is a copy of the Request for Review and a copy of this office's September 2, 2022, letter seeking further information. To date we have not received a response from your office. Section 3.5(b) of OMA (5 ILCS 120/3.5(b) (West 2020)) provides that "[w]ithin 7 working days after receipt of the request for review, the public body shall provide copies of the records requested and shall otherwise fully cooperate with the Public Access Counselor." Please provide this office with a response to our August 16, 2022, letter within the next 7 days.

Please contact me at (312) 814-5201 or at edie.steinberg@ilag.gov if you have questions or would like to discuss this matter. Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to read "Edie Steinberg", is written over a horizontal line.

EDIE STEINBERG
Senior Assistant Attorney General
Public Access Bureau

Attachment

The Honorable Larry R. Rogers, Jr.
October 27, 2022
Page 2

cc: *Via electronic mail*
Mr. Todd Thielmann
toddthielmann@gmail.com

cc: *Via electronic mail*
Mr. William R. O'Shields
Chief Deputy Commissioner
Cook County Board of Review
118 North Clark Street, Room 601
Chicago, Illinois 60602
William.oshields@cookcountyil.gov



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

September 2, 2022

Via electronic mail

The Honorable Larry R. Rogers, Jr.
Commissioner
Cook County Board of Review
118 North Clark Street Room 601
Chicago, Illinois 60602
larry.rogers@cookcountyil.gov

RE: OMA Request for Review – 2022 PAC 73109

Dear Mr. Rogers:

The Public Access Bureau has received the enclosed Request for Review in which Mr. Todd Thielmann alleges that the Cook County Board of Review (Board of Review) violated the Open Meetings Act (OMA). Specifically, Mr. Thielmann alleges that on August 19, 2022, the Board of Review violated OMA when two of its members engaged in budget discussions with individuals from the Cook County Budget Office (Budget Office) in a meeting that was not open to the public. We construe these allegations as alleging a possible violation of section 2(a) of OMA (5 ILCS 120/2(a) (West 2021 Supp.), as amended by Public Act 102-813, effective May 13, 2022).¹

In order to further evaluate this matter, please provide a detailed written response to the allegations raised by Mr. Thielmann's Request for Review. In your response, please clarify whether members of the Board of Review met on August 19, 2022, with individual from the Budget Office, and if so, how many members of the Board of Review attended that gathering, and state the total number of Board of Review members. If a majority of a quorum of Board of Review members met on August 19, 2022, please explain why the Board of Review members attended the gathering, and address whether public business of the Board of Review was discussed, deliberated, or acted upon, such as budgetary or development matters of the

¹ Section 2(a) of OMA provides that "[a]ll meetings of public bodies shall be open to the public unless excepted in subsection (c) and closed in accordance with Section 2a."


The Honorable Larry R. Rogers, Jr.
September 2, 2022
Page 2

Board of Review. Additionally, please state whether this gathering was open to the public. Finally, please also provide this office, for our confidential review, with copies of the notice, agenda, and minutes (draft form, if necessary) from the August 19, 2022, Board of Review meeting, and from the Budget Office meeting, and any recordings of the meeting.

This information must be submitted to our office within seven (7) business days after receipt of this letter. 5 ILCS 120/3.5(b) (West 2020). As we review this matter, we will notify you if we need additional records or information. Please note that under OMA, "[t]he Public Access Counselor shall forward a copy of the answer or redacted answer, if furnished, to the person submitting the request for review. The requester may, but is not required to, respond in writing[.]" 5 ILCS 120/3.5(c) (West 2020). **If you claim that any portion of your written response is confidential, please send two versions of your response letter: a complete copy for this office's confidential review and a redacted version suitable for this office to forward to the requester.**

Please contact me at (312) 814-5201 or at edie.steinberg@ilag.gov if you have questions or would like to discuss this matter. Thank you.

Very truly yours,


EDIE STEINBERG
Senior Assistant Attorney General
Public Access Bureau

Attachment

cc: *Via electronic mail*
Mr. Todd Thielmann
toddthielmann@gmail.com

cc: *Via electronic mail*
Mr. William R. O'Shields
Chief Deputy Commissioner
Cook County Board of Review
118 North Clark Street, Room 601
Chicago, Illinois 60602
William.oshields@cookcountyil.gov

From: [Todd Thielmann](#)
To: [Public Access](#)
Subject: [EXTERNAL] Request for Review
Date: Friday, August 19, 2022 1:03:21 PM
Attachments: [Budget meeting 8-18-22.docx](#)

PAC Bartelt,

I would like to initiate an RFR on a meeting that was held between the Cook County Budget office and the Cook County Board of Review Commissioners on 8/19/2022. On 8/19/2022 at 9:00am, Cook County Board of Review Commissioners Larry Rogers Jr and Michael Cabonargi engaged in a budget discussion with employees of the Cook County Budget office. There were several employees from both the Board of Review and the county budget office in attendance. Budget discussion and development are very important issues and the public has a right to be in attendance when a quorum of Commissioners are participating in the deliberation. I have attached a document that memorializes the email from the Budget office calling the meeting and also a screenshot taken from the discussion on Microsoft Teams discussion board during the meeting.

This apparent OMA violation is normal operating procedures for the Board of Review as my many RFR's have proven out. How long will the PAB allow the BOR to act in a manner that is in such conflict with established law?

The continued avoidance of not issuing a binding opinion on the matters that I have brought forth on the ignoring of OMA by the Cook County Board of Review has not made OMA compliance a priority for the Board of Review. It would best serve the public interest to render a binding decision.

Respectfully,

Todd Thielmann
312-656-0992

From: "Veronica Lopez (Budget)" <Veronica.Lopez@cookcountyil.gov>

Date: August 18, 2022 at 1:13:25 PM CDT

To: "Timnetra Burruss (Board of Review)" <timnetra.burruss@cookcountyil.gov>, "Annette Guzman (Budget)" <annette.guzman@cookcountyil.gov>, "Kanako Ishida (Budget)" <Kanako.Ishida@cookcountyil.gov>, "Seham Atallah (Budget)" <Seham.Atallah@cookcountyil.gov>, "Jeron Bland (Budget)" <Jeron.Bland@cookcountyil.gov>, "Tammy Wendt (Board of Review)" <Tammy.Wendt@cookcountyil.gov>, "Larry Rogers (Board of Review)" <larry.rogers@cookcountyil.gov>, "Michael Cabonargi (Board of Review)" <Michael.Cabonargi@cookcountyil.gov>, "Debra Brown (Board of Review)" <Debra.Brown@cookcountyil.gov>, "William O'Shields (Board of Review)" <william.oshields@cookcountyil.gov>, "Raffi Sarrafian (Procurement)" <Raffi.Sarrafian@cookcountyil.gov>

Cc: "Larry Rogers Jr." <lrogersjr@powerrogers.com>, Kitty Geary <kgeary@powerrogers.com>, "Colin Brady (Board of Review)" <Colin.Brady@cookcountyil.gov>, "Karina Figueroa (Procurement)" <Karina.Figueroa@cookcountyil.gov>

Subject: FY2023 Department Budget Meeting | Board of Review

Good afternoon,

This is a friendly reminder of your department budget meeting tomorrow, 8/19 at 9:00 am. The meeting will be in our Brain Room conference room – the room location is on the invite along with a teams link and call in number for remote attendees.

We look forward to meeting with you.

Best,

Veronica Lopez

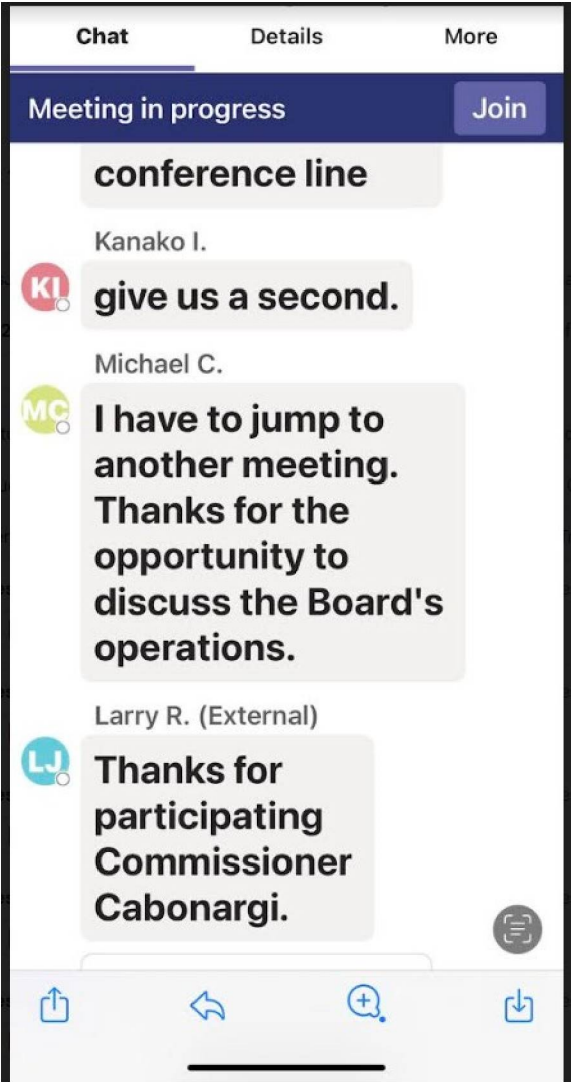
Executive Assistant to Annette C.M. Guzman, Budget Director
Department of Budget & Management Services



118 N. Clark St • Chicago, IL 60602

Phone: (312) 603-6869

Mobile: (312) 586-6562



Timeline of the violations of 5 ILCS 120/, known as the Illinois Open Meetings Act (OMA), by Cook County Board of Review Commissioners Larry Rogers Jr. and Michael Cabonargi in their support of HB 1356 which would've required any future Cook County Board of Review Commissioners to be Illinois licensed attorneys.



Created by Mr. Todd Thielmann, former Chief of Staff to Cook County Board of Review Commissioner Tammy Wendt

01/10/2023

OMA Violation Timeline highlights of Cook County Board of Review (BOR) Commissioners Larry Rogers Jr. & Michael Cabonargi

Illinois Attorney General office of the Public Access Bureau (PAB) Public Access Counselor (PAC) Case#: 2021-PAC-S-0090/68344 Illegal meetings of a quorum of Board of Review Commissioners in 2021

2021
March

Rogers & Cabonargi work with State Rep Tarver to present HB 1356 in Springfield

Issues a statement supporting HB 1356 which would require BOR Commissioners to be attorneys

2021
April

Request for Review submitted with the Public Access Bureau of the Illinois Attorney General

Mailed in RFR with the statement that was delivered on Board of Review letterhead

2021
May

Public Access Bureau acknowledges the RFR and asks for a BOR response

The request asks for a response within 7 business days

2021
July

1st response from Ancel Glink received after approval by the CCSA to represent the Commissioners

Months after the PAB request, Ancel Glink sends its response to the initial RFR

2022
Dec

Public Access Bureau determines that Rogers & Cabonargi held illegal meetings in their capacity as Commissioners

PAB delivers decision after 2022 elections-almost 20 months after initial RFR

Foundation of the Open Meetings Act (5 ILCS 120) issues at the Cook County Board of Review.

March 31, 2021-Cook County States Attorney responded to Cook County Board of Review Commissioner Tammy Wendt to the question of whether the Cook County Board of Review was required to adhere to the Illinois Open Meetings Act. This was requested because Commissioners Rogers and Cabonargi had been calling Commissioner Wendt to discuss Board of Review business and she didn't feel comfortable discussing BOR business outside a public meeting. Commissioners Rogers and Cabonargi didn't believe the Board of Review was required to comply with OMA. (EX.1)

All Board of Review Commissioners in Illinois are required by law to complete the Illinois Department of Revenue (IDOR) course, *Board of Review Basic Course*, 1-BR 001-035 within a year of taking office. In Unit 12, under Ethics, the Open Meetings Act is covered as part of the course material. The inclusion of OMA in the material makes it clear that all 102 Illinois Boards of Review are included in the OMA statute. IDOR confirmed that Commissioners Rogers and Cabonargi had completed the course at some point. (EX. 2 & 3)

In addition to the IDOR requirement, all Illinois elected officials are required to complete the Open Meetings Act training offered by the Attorney General's office. The certificates of completion are, per OMA, required to be held by the public body that the official is tied to. The Board of Review was unable to produce the certificates for Commissioners Rogers and Cabonargi. A Request for Review from the Public Access Bureau was ignored. Case# PAC-69742(EX. 4)

April 22, 2021-

Commissioner Wendt received an email from State Representative Michelle Mussman making her aware of HB 1356 which was introduced in Springfield by State Representative Curtis Tarver. Attached to the email was the opinion from the Cook County Township Assessors Association President Ali ElSaffar in opposition to HB1356. (EX. 5)

Commissioner Wendt forwarded the email to Todd Thielmann with a question mark for further clarification. Mr. Thielmann immediately alerted Commissioner Wendt that it appeared to him that Commissioners Rogers and Cabonargi had violated the Illinois Open Meetings Act by issuing their support commentary on Cook County Board of Review letterhead. This had the appearance of an official act and used Board of Review assets. In the 3rd from the last paragraph, the Commissioners state; ***“...this amendment would improve the ethical safeguards of the Cook County Board of Review. As licensed attorneys, the Commissioners would be bound by the canon of ethics for attorneys and subject to discipline by the Attorney Registration & Disciplinary Commission (“ARDC”).”*** (EX.6)

Commissioner Wendt issued an independent opinion in opposition to HB1356. (EX. 7)

Mr. Thielmann submits a Request for Review with the Public Access Bureau of the Illinois Attorney General’s office. (EX. 8)

April 23, 2021-Capital Fax prints a story with direct quotes from Commissioners Rogers and Cabonargi. “As licensed attorneys, Commissioners are held to a higher ethical standard and subject to discipline by the Illinois Attorney Registration & Disciplinary Commission, another safeguard that voters clearly value since they’ve now elected three licensed attorneys as Commissioners of the Board.” <https://capitolfax.com/2021/04/23/its-just-a-bill-263/> (EX. 9)

April 26, 2021-The Daily Line Reporter, Alex Nitkin, holds a conference call with Commissioners Rogers and Cabonargi in which they discuss their reasoning for requiring attorneys as Board of Review Commissioners which would be another OMA violation. <https://www.thedailyline.com/good-government-bill-to-winnow-board-of-review-candidates-draws-heat-from-wendt-kaegi> (EX. 10)

May 7, 2021- Public Access Bureau acknowledges receipt of the RFR and requests a response from the Board of Review in 7 business days. Case#-PAC S-0090 or 68344 (EX. 11)

June 28, 2021-Cook County States Attorney authorizes the hiring of the law firm, Ancel Glink, as Special Counsel because of the conflict of interest due to the previous legal opinion from the Cook County States Attorney that the Board of Review does fall under the provisions of the Open Meetings Act that was given to Commissioner Wendt in previous exhibit 1. (EX. 12)

July 24, 2021-Special Counsel Ancel Glink responds to the original RFR. (EX. 13)

July 26, 2021-Mr. Thielmann responds to Ancel Glink's response.(EX. 14)

Nov. 16, 2021-Ancel Glink submits a supplemental response. (EX. 15)

Nov. 29, 2021-Mr. Thielmann responds to Ancel Glink's supplemental response. (EX. 16)

January 19, 2022-Illinois Attorney General-Public Access Bureau issues a non-binding determination that the Board of Review Commissioners held an illegal meeting on March 10, 2021. Case#-PAC-S-0135. (EX. 17)

April 4, 2022-Due to the Board of Review obstruction, the Illinois Attorney General-Public Access Bureau can't determine if the Board of Review Commissioners are complying with 5 ILCS 120/1.05 which requires elected officials to provide their Open Meetings Act training certificates be held by the public body they represent. Case#-PAC-69742. (EX. 18)

April 6, 2022-Ancel Glink sends a 2nd supplemental response. (EX. 19)

Oct 6, 2022-Mr. Thielmann executes a FOIA request to the Cook County Board of Review for all communications between Commissioners Rogers and Cabonargi for the period prior to and after issuing their HB1356 support memorandum. BOR has ignored the FOIA request. Case#-PAC-74033 initiated to resolve. BOR is unresponsive to PAB regarding the FOIA.(EX. 20)

Oct 7, 2022-Public Access Bureau Chief Mr. Silverman comments in his response to his awareness of Mr. Thielmann's Board of Review FOIA that he also asked for the communications between Commissioners Rogers and Cabonargi but did not receive them from the Board of Review. (EX. 21)

December 15, 2022-Illinois Attorney General's office of the Public Access Bureau issues their opinion that Commissioners Rogers and Cabonargi engaged in illegal meetings concerning the support of HB1356. Due to the delay, the Public Access Bureau can only issue a "non-binding" decision. The optics of waiting until after the 2022 election is apparent. (EX. 22)

Conclusions:

- In the body of the HB 1356 memorandum (EX. 6) and in the quote given to Capital Fax (EX. 9), Commissioners Rogers and Cabonargi state that the reasoning behind requiring Cook County Board of Review Commissioners to be attorneys is the ability to hold them to a higher ethical standard out of fear of discipline by the Illinois Attorney Registration & Disciplinary Commission, the ARDC.
- Based on the chain of events it is very clear that the Cook County Board of Review believes that they do not have to comply with state law. (EX. 23) Commissioners Rogers and Cabonargi have long held the belief that the Board of Review is above the law, and they have obstructed any attempt to bring their failures to light by not complying with many requests from the Illinois Attorney General's office of the Public Access Bureau. (EX. 20)
- There have been two determinations from the Illinois Attorney General's office that the Board of Review has held two illegal meetings in 2021. There are two more Requests for Reviews pending from July and August of 2022 at the Public Access Bureau regarding the continuation of illegal meetings involving Commissioners Rogers and Cabonargi engaging with County budget officials. PAC case #'s 72702 & 73109 (EX. 24 & 25)
- Former Board of Review Commissioner Dan Patlak confirmed to Mr. Thielmann in a phone conversation that, as a Board of Review Commissioner, he remembers many private meetings that a quorum of Board of Review Commissioners participated in and discussed Board business.

Conclusions con't:

- It was only after Mr. Thielmann made Commissioner Wendt aware of OMA restrictions in the Spring of 2021 that she stopped participating in phone conversations with Commissioners Rogers and Cabonargi pending the requested opinion from the Cook County States Attorney. The States Attorneys' opinion was shared via email with the Board of Review administration in April 2021. During the 6/29/2021 public meeting, Commissioners Rogers and Cabonargi admit to calling Commissioner Wendt many times to discuss Board of Review business. At the 36:55-minute mark, Commissioner Cabonargi states; ***"...the reason we quit talking was, as Commissioner Rogers has said, you said that the Open Meetings Act, your interpretation, was that you could not and would not meet with us and talk with us. The conversation we're having right here, I'm happy to have with you Commissioner Wendt, I just think it's best we have it behind closed doors."*** (EX. 23) This proves beyond doubt that Commissioners Rogers and Cabonargi didn't believe in or respect the Illinois Open Meetings Act and have historically ignored any sense of compliance.
6/29/2021 meeting video available at: <https://www.youtube.com/watch?v=twZEXr8scDQ>
6/29/2021 meeting minutes available at: <https://www.cookcountyboardofreview.com/files/BOR-File-883.pdf>
- Ignorance is not a defense as the timeline proves. Education that includes training on the Illinois Open Meetings Act is statutorily required to hold the title of Cook County Board of Review Commissioner. (EX. 3 & EX. 4) Furthermore, the fact that Commissioners Rogers and Cabonargi are licensed attorneys, and have been for many years, should be evident that they understand the canons of law and the importance of attorneys following applicable state law. As public officials, they can't pick and chose what laws they will follow.