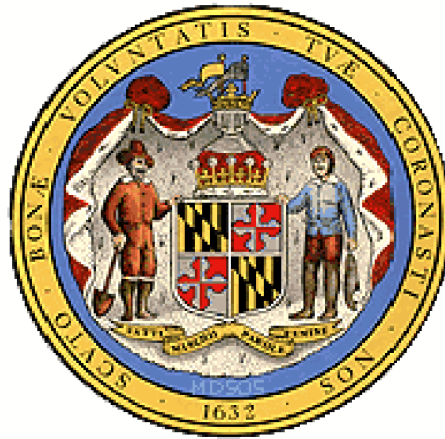


TWENTY-FIFTH ANNUAL REPORT
OF THE
OPEN MEETINGS COMPLIANCE BOARD



BOARD MEMBERS

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SEPTEMBER 2017

**TWENTY-FIFTH ANNUAL REPORT
OF THE
OPEN MEETINGS COMPLIANCE BOARD**

Pursuant to §3-204(e) of the General Provisions Article (“GP”), the Open Meetings Compliance Board submits this annual report for the period running from July 1, 2016, through June 30, 2017. In this report, we describe our activities, state the number and nature of our opinions and the violations we found, and discuss complaints that a public body has not given notice. We also state whether legislative improvements are needed.

INTRODUCTION

As detailed below, the Compliance Board’s primary function is to issue advisory opinions in response to complaints that public bodies have violated the Act. The Compliance Board also recommends improvements to the Act when needed and, in conjunction with the Office of the Attorney General, conducts educational programs for the staffs and attorneys of public bodies, the Maryland Municipal League, the Maryland Association of Counties, and, beginning on July 1, 2017, the Maryland Association of Boards of Education. GP § 3-204.

The Compliance Board is comprised of three members, all attorneys, who serve without compensation. GP §§ 3-202. The current members were initially appointed by the Governor in 2015 and confirmed by the Senate in 2016; two members are now serving a second term. Although the Compliance Board is an independent body, it has no budget and no staff of its own. The Office of the Attorney General provides counsel and administrative support.

I.

ACTIVITIES OF THE BOARD

A. Number of Complaints Received and Opinions Issued

From July 1, 2016 to June 30, 2017, we received **32** written complaints of past violations of the Act by **26** separate public bodies. One complainant submitted **9** complaints.

We issued **27** opinions in all. In **9** opinions, we did not find a violation. In **18** opinions, we found violations, in varying degrees of seriousness, by **17** separate public bodies.

The docket for the complaints of past violations was follows:

Docketed Complaints from FY2016, pending on July 1, 2016:	6
Complaints on past violations, received during FY 2017	32
Total complaints docketed in FY 2017:	38
Complaints consolidated	3
Complaints withdrawn/not resubmitted with signature	2
Total matters to address:	33
Opinions issued in FY 2017:	27
Complaints dismissed as not within authority:	0
Complaints still pending on 7/1/17:	6

Additionally, one complainant alleged prospectively that a public body might exclude the public from an upcoming meeting. That complaint was resolved on the morning it was received. The public body immediately responded to our staff with the information that it had posted a meeting notice and intended to meet in the open, and it sent a copy of the notice to the complainant.

B. Nature of the Complaints: the Provisions of the Act Violated and Complaints Involving the Failure to Provide Notice of a Meeting

The Act has long required us to report specially on complaints involving a public body's failure to provide notice. Effective July 1, 2017, the General Assembly enacted legislation that requires us to report also on the violations of all of the provisions of the Act and the number of times we have found those violations. 2017 Laws of Md., ch. 525. References are to the General Provisions Article of the Maryland Code. Both sets of reports follow.

1. Notice complaints: Altogether, we addressed notice issues in 5 opinions where the complained-of entity was indisputably a public body subject to the Act. We found violations in 3 of those opinions. Some violations arose out of missteps in a public body's attempt to provide notice. One public body failed to retain a copy of the notice that it had provided online. Another worded its public notice incorrectly. That public body published notice of an "executive session" but failed to inform the public that the public body would vote on a motion to close in an initial public meeting right before the session. We see that error fairly regularly, and it does not suggest a desire by the public body to conceal from the public the fact that it will meet in closed session. Indeed, as shown by that particular public body's videotape of a public meeting on an earlier date, the members had announced the meeting in advance and voted openly in advance to hold it in closed session. A third public body, forced to reschedule a meeting because of the January 2016 blizzard, entered the new meeting date in the calendar block for the canceled date but not for the new one.

Two additional matters involved substantive violations by publicly-created non-profit corporations that met without complying with any provision of the Act, including the notice requirement. One of those corporations, an economic development corporation apparently created to replace a city's economic development department but incorporated by an individual, has new staff and has now stated that it will comply with the Act. The

other entity acknowledged and described our opinion in minutes that it posted online, discussed its intention years ago to remove itself from city governance, and apparently has taken steps to formalize that. Similar notice violations occurred when public bodies met to discuss matters that arguably lay within the administrative function exclusion to the Act but, as it turned out, were subject to the Act. We generally categorize those violations as violations of § 3-301, the overall requirement that public bodies meet openly, rather than as violations of § 3-302 and every other component of the Act. In another example of a matter in which the lack of notice was a by-product of a different violation, one public body did not give notice of a closed meeting that it contended would properly have been closed anyway. The primary difficulty there may have been the public body's failure to comply with the procedures for closing a meeting under the Act, notably the need to conduct a public vote on a motion to close. The omission substantively violated the Act's general open meeting mandate because the result was a secret closed session.

The quarterly summaries in Part III, below, cite these and our other opinions on notice during the fiscal year.

2. Provisions violated

As shown above, categorizing violations is not an exact science, as a violation of one provision can have a domino effect on compliance with many of the others. For example, a public body that has mistakenly advertised a meeting as an "executive session," rather than as an open meeting held for the purposes of voting publicly to go into a closed session, will have violated the notice requirement as well as the open-vote requirement. The fix for that violation is wording the notice differently. Similarly, a public body that has not included every required piece of information on its written disclosures about what it intends to discuss in closed session has violated that disclosure provision – and also the general open meeting requirement, because closed sessions are conditioned on complete disclosures. The primary problem there lies with the content of the disclosure form, and

the fix for the violation is prompting the presiding officer to check the form to be sure it is complete. In writing opinions, we focus on the guidance that that the public body needs for compliance; in counting violations, we also have tried to focus on the primary problem.

With the same goal in mind—the improvement of a public body’s practices when deficient—, our opinions address the deficient practice, not the number of meetings at which the public body followed, or might have followed, that practice. Here, too, we provide the number of times we have found the particular violation, and not the number of meetings in question. The latter number would be skewed by the fact that some complaints focus on a single meeting, while other complaints may show that the same type of violation occurred for years, as with the public body that apparently met as a private non-profit for over a decade, until someone submitted a complaint to us.

First quarter: *(July 1, 2016 – September 30, 2016)*

We issued **10** opinions and found violations in **7** opinions, as follows:

§ 3-206 (timely response to complaint): 1

§ 3-211 (timely acknowledgment of violation): 1

§ 3-213 (designation of trainee): 1

§ 3-301 (open meeting requirement): 1

§ 3-302 (notice): 2

§ 3-305 (a),(b) (scope of exceptions): 3

§ 3-305(d): (steps for closing a meeting): 3

§ 3-306 (b) (prompt adoption of minutes): 2

§ 3-306 (content of minutes): 2

Second quarter: *(October 1, 2016 – December 31, 2016)*

We issued **8** opinions and found violations in **6** opinions, as follows:

§ 3-211 (timely acknowledgment of violation): 1

- § 3-301 (open meeting requirement): 2
- § 3-302 (notice): 3
- § 3-305 (a),(b) (scope of exceptions): 3
- § 3-305(d) (steps for closing a meeting): 1
- § 3-306 (b) (prompt adoption of minutes): 1

Third quarter: *(January 1, 2017 – March 31, 2017)*

We issued **5** opinions and found violations in **2** opinions, as follows:

- § 3-301 (open meeting requirement): 1
- § 3-302 (notice): 1
- § 3-305 (a),(b) (scope of exceptions): 1
- § 3-305(d) (steps for closing a meeting): 1

Fourth quarter: *(April 1, 2017 – June 30, 2017)*

We issued **4** opinions and found violations in **3** opinions, as follows:

- § 3-104 (disclosure of administrative function information): 1
- § 3-301 (open meetings): 1
- § 3-305 (a),(b) (scope of exceptions): 1
- § 3-306 (content of minutes): 1

Totals:

- § 3-104 (disclosure of administrative function information): 1
- § 3-206 (timely response to complaint): 1
- § 3-211 (timely acknowledgment of violation): 2 (one public body)
- § 3-213 (designation of trainee): 1
- § 3-301 (open meeting requirement): 5
- § 3-302 (notice: posting, wording, retention): 6

§ 3-305 (a),(b) (scope of exceptions): 8

§ 3-305(d): (steps for closing a meeting): 5

§ 3-306 (b) (prompt adoption of minutes): 3

§ 3-306 (content of minutes): 3

C. Nature of the Complaints

In this 25th annual report, we step back to give our perspective on the nature of the complaints in terms of both the quantity of the complaints and the seriousness of the allegations.

As for a perspective on quantity—how the number of complaints we received during the year relates to the volume of public bodies or of meetings held—we received 32 complaints concerning a total of 26 separate public bodies in State, county, and municipal government. The numerator is thus 26 for complained-of public bodies. The denominator, whether the number of public bodies in existence or the number of meetings held during the year, is hard to approximate, let alone quantify. As we have often explained, we do not know how many public bodies exist in any Maryland jurisdiction on any given day. By way of examples, the number increases whenever a board resolves to create a committee, or the Governor or a mayor appoints a temporary task force, or a joint conference committee of the General Assembly comes into being. *See* Open Meetings Act Manual (2016), Ch. 1, Part A(1) (discussing *Avara v. Baltimore News American*, 292 Md. 543 (1982)). The number decreases whenever a temporary task force or committee finishes its work. Some dissolve formally or at the end of a fixed term; others might simply cease to exist. We look to some local government figures for a very broad view that does not attempt to approximate the number of local “public bodies” at any given time.

Maryland has 24 counties, including Baltimore City. Each in turn has governing bodies, boards, commissions, and task forces subject to the Act. For example, we understand that Montgomery County had 87 boards and commissions as of June 2017.

During the fiscal year, we did not find any Montgomery County board, commission, or other public body in violation of the Act. Twenty other counties also had no public bodies in violation of the Act during the year.

Likewise, at the municipal level, we know that there are 157 towns and cities. In turn, many, perhaps most, have boards and commissions. Seven separate towns had violations this year; 150 did not. Regarding other types of entities, we issued four opinions in which we found that three separate school boards had violations. Two of those opinions involved the school board's failure to announce an earlier violation. The volume of meetings for all of these public bodies is impossible for us to quantify; some public bodies meet dozens of times every year; others meet rarely.

Thus, the quantity of complaints, and of complaints culminating in a finding of a violation, is minute in light of both the many State, county, and municipal public bodies that operate in the State and the number of public meetings that they hold. The number of complaints is not attributable to any difficulty in filing complaints; our complaint procedures have gotten easier over the years. Our complaint procedures are posted online, and complaints may be submitted by email with a scanned signature or by mail, at no cost to the complainant. It may instead be that many public bodies that interest the general public—often, local governing bodies and school boards—appear to comply with the Act's broad mandates: Many counties and school boards stream their meetings live; notices are often posted online; increasingly, minutes are posted. That brings us to the seriousness of the violations.

Fewer than half of this year's opinions involved a substantial interference with the public's right to observe public business. Increasingly, violations are occurring through a misstep in applying the Act, not from an apparent disregard or lack of awareness of the Act. For example, one city council streams its meetings live, reads aloud the dates of its future meetings, open and closed, and publishes written and online notice of those meetings—but did not follow the correct sequence in the steps for closing its meetings.

However, substantial violations do occur. For example, one town council violated the Act in a way very similar to its violation last year, and, both times, the members of the council at the time deprived the public of the opportunity to observe deliberations that the Act required to be public. *See* 11 *OMCB Opinions* 38 (2017). The town council had acknowledged receipt of our earlier opinion.

One sector of public bodies seemingly stood out this year: we issued four opinions regarding three separate local school boards, and there are only 24 local school boards. We emphasize that the sector “seemingly” stood out; three complaints were submitted by a single individual, and two of those involved the school board’s failure to announce violations that it had asked us to reconsider. More substantively, the other complainant alleged that a school board had met secretly to discuss dismissing and replacing the superintendent. As with many of the complaints we see arising out of a public body’s hiring decisions, we found that some of those discussions were properly closed to the public, that some could have been properly closed to the public, and that others involved process matters that the Act requires to be discussed openly. From the complaints we receive, we do not perceive a widespread disregard of the Act by school boards. Many have long posted agendas and stream their meetings live.

The small universe of complaints to the Compliance Board might or might not be a representative sample of the rate of open meetings compliance in Maryland and the type of violations generally. We only see the complaints that come to us, and we do not know how many open meetings cases are filed in circuit court every year. However, if there were widespread deprivation of the public’s opportunity to observe meetings, we might have seen more complaints from the media who cover public bodies and the organizations that monitor government activities. During this fiscal year, only three complainants identified themselves as journalists. Two of those complaints resulted in a finding of what we deem to be a substantive violation: a discussion, in closed session, that the Act requires to be held in the open. The third did not state a violation.

We are not suggesting that substantive open meetings violations do not occur. We merely suggest, because the law now requires us to quantify “violations,” that the numbers of complaints submitted to us and the numbers of violations found by us do not indicate widespread noncompliance among the ever-changing universe of public bodies in Maryland.

More specifically, the nature of the complaints that we addressed this year is reflected in the topic descriptions in the quarterly summaries in Part III, below.

D. Financial, Support, Educational, and Reporting Activities

The Attorney General's Office provides the Board with the services of counsel and the administrator, posts the Board's opinions and other Open Meetings Act materials on its website, and bears the incidental costs associated with administering the Board's work. The Board could not fulfill its statutory duties without this support, as no funds have ever been specifically appropriated for its operations, and none were for fiscal year 2017.

The Institute for Governmental Service and Research at the University of Maryland hosts, maintains, and performs updates to the online class that many public bodies now rely on to comply with the Act's training requirement. We greatly appreciate the service that the Institute renders to the public in creating the online class, in conjunction with the Office of the Attorney General, and in making it continuously available to the general public, currently at no charge for access, and, to date, without charging for its services.

Training on the Open Meetings Act was provided to local government officials and employees through the certificate program offered by the Academy for Excellence in Local Governance, a program of the School of Public Policy at the University of Maryland. This fiscal year, Frederick County Attorney John S. Mathias and our counsel taught the Academy's Open Meetings class at the Maryland Association of Counties Winter Conference. In November 2016, our Chair briefed the Joint Committee on Legislative

Technology and Open Government. In March 2017, our counsel addressed an orientation session that the Maryland Municipal League held for new municipal officials.

In June 2017, the Office of the Attorney General revised the Open Meetings Act Manual and almost every other resource on the open meetings webpage to reflect the 2017 amendments. See <https://www.oag.state.md.us/Opengov/Openmeetings/index.htm>. Additionally, the model closing statements were reformatted to highlight for presiding officers all of the items of information that must be disclosed before a meeting is closed.

Finally, upon the enactment of Laws of Md., ch. 525, work began on the cost-benefit determination concerning “tracking the names of individuals” who complete Open Meetings Act training and the other reports required by that legislation.

E. Publication of opinions issued during the fiscal year

The Board’s opinions for the 2017 fiscal year appear in Volume 10, pages 74 on, and Volume 11, pages 1 through 42. Both volumes are posted at <https://www.oag.state.md.us/Opengov/Openmeetings/board.htm>. The table of contents for each volume lists each opinion, along with the name of the public body, the topics discussed, and, as of July 1, 2017, a notation for opinions in which we found a violation. Quarterly summaries are published in the Maryland Register. They appear in Part IV of this report in a modified form.

II.

LEGISLATION - 2017 SESSION AND BOARD RECOMMENDATIONS

A. Legislation proposed and enacted in 2017

One of our statutory duties is to recommend improvements to the Act. One of the ways in which we do that is to comment on legislative proposals after we have deliberated on them in public. On February 14, 2017, we met by teleconference to consider whether to

take a position on open meetings bills that had been introduced in the General Assembly as of that date. We were soon advised that the bills would very likely be substantially amended in various ways to reflect discussions that apparently had been held in 2016. We addressed aspects of the bills as introduced. We were unable to convene on short notice to address committee staff's questions to our counsel about the amendments.

In our belief, changes to the Open Meetings Act should not occur without careful consideration; the law affects every meeting of every public body in Maryland, ranging from the General Assembly and its committees, well-staffed and well-funded, to every temporary committee, often not staffed and not funded, that an executive appoints to address a problem. We also believe that changes to the Act should not be made on a piecemeal basis. We encourage sponsors and those who are interested in open meetings legislation to bring their ideas to us as early as possible so that all may consider the proposal's effect on the Act and the various types of public bodies that must comply with it and properly explore the possibility of unintended consequences.

The minutes of the meeting describe our discussions. The minutes are posted at: <http://www.marylandattorneygeneral.gov/OpenGov%20Documents/Openmeetings/min021417.pdf>. The Chair conveyed to the appropriate committees that we would not be able to provide thoughtful comment.

Chapter 525 of 2017 amended the Act in various ways, as described in the revised materials posted on the open meetings page of the Attorney General's website. The legislation also imposed on the Compliance Board the duty to draft a report, by December 1, 2017, on the "cost-benefit" of tracking the names of individuals who, as designees of public bodies, have completed training in the Act. We also must report on the status of developing, with the Maryland Association of Counties, the Maryland Municipal League, and the Maryland Association of Boards of Education, a list of contacts to whom we might distribute educational materials. And, we must post online the names of public bodies that we have found in violation of the Act.

B. Board recommendations for the 2018 Legislative Session

After considering, at our annual meeting, whether to recommend amendments to the Act, we decided that none is needed at this time.

III.

QUARTERLY SUMMARIES OF OPINIONS ISSUED FROM JULY 1, 2015 – JUNE 30, 2016

The following summaries are attached to this report:

Opinions Issued from July 1 – September 30, 2015

Opinions Issued from October 1 – December 31, 2015

Opinions Issued from January 1 – March 31, 2016

Opinions Issued from April 1 – June 30, 2016

Open Meetings Compliance Board

Summary of Opinions Issued from July 1 – September 30, 2016*

10 Official Opinions of the Compliance Board 74 (2016)

Prince George's County Local Development Council, (Jay Krueger, Complainant)

July 20, 2016

Topics discussed: Status of local development council as "public body" subject to the Act; open meeting requirement; administrative function exclusion (not applicable to formulation of recommendations about gaming funds); requirements that public bodies respond to complaints in a timely fashion and designate a trainee

10 Official Opinions of the Compliance Board 77 (2016)

Charles County Planning Commission (Kenneth W. Hastings, Jr., Complainant)

July 19, 2016

Topics discussed: Closed-session procedures and disclosures; inapplicability of personnel exceptions to discussion about whether to close a land use file to further correspondence; inapplicability of legal advice exception to action on whether to close a land use file to further correspondence; training requirement

10 Official Opinions of the Compliance Board 80 (2016)

Howard County Board of Education, (Craig O'Donnell, Complainant)

August 23, 2016

Topics discussed: Acknowledgment of violation (deadline not extended by request for reconsideration); standards for reconsideration

10 Official Opinions of the Compliance Board 83 (2016)

City Council, City of Greenbelt, (John B. Almquist, Complainant)

August 23, 2016

Topic discussed: Wording of agenda

10 Official Opinions of the Compliance Board 85 (2016)

Prince George's County Board of Education, (Craig O'Donnell, Complainant)

August 24, 2016

Topics discussed: Adequacy of pre-prepared closing statements and summaries of closed sessions

10 Official Opinions of the Compliance Board 91 (2016)

Prince George's County Local Development Council, (Nathaniel Baccus, III, Complainant)

September 13, 2016

Topic discussed: Notice (website and email subscription lists)

10 Official Opinions of the Compliance Board 93 (2016)

Maryland Economic Development Assistance Authority and Fund, (Craig O'Donnell, Complainant)

September 13, 2016

Topics discussed: Notice (advice on website notices); document retention; timeliness of minutes

10 Official Opinions of the Compliance Board 95 (2016)

Board of Supervisors of Elections of the City of Rockville (Max A. van Balgooy, Complainant)

September 13, 2016

Topics discussed: Notice (use of calendar function on website; timeliness of notice of new date for meeting that had been canceled because of a blizzard); timeliness of minutes; complaints about practices already addressed by the Compliance Board

10 Official Opinions of the Compliance Board 98 (2016)

Mayor and Council of Chestertown, (Daniel Divilio, Kent County News, Complainant)

September 13, 2016

Topics discussed: Applicability of legal advice exception to session that was closed to receive counsel's advice, but not to deliberations on it; inapplicability of exceptions not cited on the closing statement; closing statements

10 Official Opinions of the Compliance Board 101 (2016)

Mayor and City Council of Taneytown, (Katherine Adelaide, Complainant)

September 21, 2016

Topics discussed: Inapplicability of Act to city employees assigned a task; Compliance Board's lack of authority to require a city council to defer action on a city election matter pending resolution of the open meetings complaint

*The Compliance Board's opinions for this quarter are posted in full in Volume 10, accessible at http://www.marylandattorneygeneral.gov/OpenGov%20Documents/Openmeetings/OMCB_Topical_Index.pdf

Open Meetings Compliance Board

Summary of Opinions Issued from October 1 – December 31, 2016*

10 Official Opinions of the Compliance Board 104 (2016)

Baltimore City Board of School Commissioners (Reginald L. Lee, Complainant)

October 6, 2016

Topics discussed: Scope of administrative function exclusion, in context of various stages of superintendent hiring process; notice

10 Official Opinions of the Compliance Board 110 (2016)

Howard County Board of Education (Craig O'Donnell, Complainant)

October 13, 2016

Topic discussed: Acknowledgment of violation

10 Official Opinions of the Compliance Board 112 (2016)

City of Greenbelt Forest Preserve Advisory Board (Brian Almquist, Complainant)

November 2, 2016

Topics discussed: Timeliness of notice posted on website; timeliness of minutes

10 Official Opinions of the Compliance Board 115 (2016)

Montgomery Planning Board of the Maryland National Park and Planning Commission (Steve Hull, Bethesda Magazine, Complainant)

November 5, 2016

Topics discussed: Content of notice; complaint procedures

10 Official Opinions of the Compliance Board 117 (2016)

Cumberland Economic Development Corporation (Jeff Shaw, Nicholas Redding, Woodrow H. Gordon, Diane M. Gilmore, Debra Darby, Lawrence Darby, and Susan Bolyard, Complainants)

November 3, 2016

Topics discussed: Scope of the Act (applicability to non-profit corporation created by city); notice

10 Official Opinions of the Compliance Board 126 (2016)

Board of Commissioners, Housing Authority of the City of Annapolis (Richard Hutzell, Capitol Gazette Communications, Complainant)

November 9, 2016

Topics discussed: Notice; closed-session requirements

10 Official Opinions of the Compliance Board 128 (2016)

Anne Arundel County Board of Appeals (Sara Shoemaker and Laura Scalise, Complainants)

November 21, 2016

Topics discussed: “Legal advice” exception; sufficiency of closing statements; sufficiency of facts for resolution of complaint

10 Official Opinions of the Compliance Board 134 (2016)

Mardela Springs Town Commissioners (Donald L. Singleton, Ph.D., Complainant)

December 8, 2016

Topics discussed: Administrative function exclusion; notice

*The Compliance Board’s opinions for this quarter are posted in full in Volume 10, accessible at <http://www.marylandattorneygeneral.gov/Pages/OpenGov/OpenMeetings/index.aspx>.

Open Meetings Compliance Board

Summary of Opinions Issued from January 1- March 31, 2017¹

11 Official Opinions of the Compliance Board 1 (2017)

Mardela Springs Town Commissioners (Donald L. Singleton, Ph.D., Complainant)

January 23, 2017

Topics Discussed: Closing Statements

Opinion: The Board cannot resolve the conflicting inferences presented by the submissions. If the presiding officer prepared the written statement at the time of the vote to close, the Commissioners did not violate the Act. If the statement was prepared after the closed session began, the Commissioners violated § 3-305.

Violations: None found

11 Official Opinions of the Compliance Board 3 (2017)

Baltimore Office of Promotions and the Arts, Inc. (Jeremy Rountree, Complainant)

February 1, 2017

Topics Discussed: Definition of a Public Body

Opinion: This nonprofit entity is a public body and violated the Open Meetings Act by not meeting openly.

Violations: §3-301 et seq.

11 Official Opinions of the Compliance Board 12 (2017)

Greenbelt City Council (Brian Almquist, Complainant)

March 16, 2017

Topics Discussed: Closed Session Statement and Recorded Vote, Reasonable Advance Notice, Closed Session Topics, Written Statement and Post-Session Summary of Session

Opinion: The Public Body violated the Act by:

- voting in advance to close its meetings rather than at the meeting to be closed;
- by not giving notice to the public that it may observe the vote to close;
- by not providing all of the required information about its closed sessions; and
- at two meetings, by discussing in closed session matters beyond the scope of the personnel exception.

Violations: §3-302 §3-305, § 3-306

¹ The Compliance Board's opinions are posted at
<http://www.marylandattorneygeneral.gov/Pages/OpenGov/OpenMeetings/index.aspx>

11 Official Opinions of the Compliance Board 18 (2017)

Mayor and City Council, City of Gaithersburg (Aaron Rosenzweig, Complainant)

March 23, 2017

Topics Discussed: Agenda Requirements

Opinion: The Public Body did not violate the Act.

Violations: None

11 Official Opinions of the Compliance Board 20 (2017)

Mayor and City Council, City of Gaithersburg (M. Steven Lawrence and Aaron Rosenzweig, Complainants)

March 23, 2017

Topics Discussed: Meeting Definition, Meeting Notice

Opinion: The Public Body did not violate the Act.

Violations: None

Open Meetings Compliance Board

Summary of Opinions Issued from April 1- June 30, 2017²

11 Official Opinions of the Compliance Board 22 (2017)

Cambridge City Council (Hon. Stephen W. Rideout, Complainant)

April 13, 2017

Topics Discussed: Notice-Content, Written Closing Statements

Opinion: Regarding the Cambridge City Council's meeting that the Council on February 21, 2017, the Compliance Board found:

Public vote: The Council conceded that it was required to vote publicly to close the meeting and therefore to provide the public with advance notice of the public's right to attend. The Council violated §§ 3-305(d) and 3-302.

Use of an agenda as the presiding officer's written statement. The Council did not prepare an adequate closing statement and did not adopt the agenda as its statement. The Council violated § 3-305(d).

Closed Session Topic. In its closed session, the Council discussion was beyond the scope of the disclosed topic. The Council violated § 3-305

Violations: §§ 3-302, 3-305

11 Official Opinions of the Compliance Board 25 (2017)

MD State Board of Veterinary Medical Examiners (Kathleen C. Hastings, Complainant)

May 2, 2017

Topics: Administrative Function Exclusion, Timely Notice Provision, Timely Agenda Provision, Timely Minutes, Closed Session Topics, Closed Session Summary.

Opinion: Regarding the nine board and workgroup ("Board") meetings identified in the complaint, the Compliance Board found:

Notice: No violations

Posting of minutes: No violations.

Discussion of policy matter during administrative session: The Board's discussion briefly strayed beyond a particular complaint matter and into a policy topic that the public body was required to discuss in the open. The Board violated § 3-301.

Closed session summaries. The Board did not include all of the information required by § 3-104 and violated it.

Violations: §§ 3-104, 3-301

² The Compliance Board's opinions are posted at <http://www.marylandattorneygeneral.gov/Pages/OpenGov/OpenMeetings/index.aspx>. Statutory references are to the General Provisions Article.

11 Official Opinions of the Compliance Board 35 (2017)

Board of Directors, Maryland Environmental Service (Michele J. Fluss, Complainant)

May 4, 2017

Topics:

Opinion: Regarding the January 25, 2016 meeting of the Board of Directors of the Maryland Environmental Service (“MES Board”), the Board found:

Notice: No violations

Violations: None

11 Official Opinions of the Compliance Board 38 (2017)

Rock Hall Town Council (Grenville Whitman, Complainant)

June 17, 2017

Topics: Personnel Exception, Legal Advice Exception, Closed Session Summary

Opinion: Regarding the council meetings held on January 12 and February 9, 2017, the Compliance Board found:

Closed session topics: The Council violated § 3-305 by secretly discussing matters that did not fall within an exception to the Act.

Closed session disclosures: The Council violated the disclosure requirements set by §§ 3-104, 3-305(d) and § 3-306(c)(2)

Violations: §§ 3-104, 3-305 and 3-306