

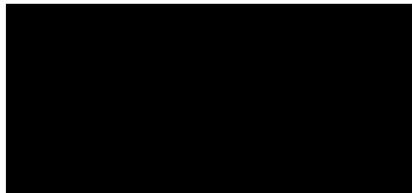


OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

March 7, 2019

Via electronic mail



RE: OMA Request for Review – 2019 PAC 57090

Dear [REDACTED]:

On March 2, 2019, the Public Access Bureau received your Request for Review in which you allege that the City of Elmhurst Board of Fire and Police Commissioners (Board) violated the Open Meetings Act (OMA) (5 ILCS 120/1 *et. seq.* (West 2016)) in connection with its December 17, 2018, special meeting.

Section 3.5(a) of OMA (5 ILCS 120/3.5(a) (West 2016)) provides, in pertinent part:

A person who believes that a violation of this Act by a public body has occurred may file a request for review with the Public Access Counselor established in the Office of the Attorney General not later than 60 days after the alleged violation. **If facts concerning the violation are not discovered within the 60-day period**, but are discovered at a later date, not exceeding 2 years after the alleged violation, by a person utilizing reasonable diligence, **the request for review may be made within 60 days of the discovery of the alleged violation.** (Emphasis added.)

Under the plain language of section 3.5(a), a person must submit a Request for Review within 60 days after an alleged violation unless the person did not discover facts concerning the alleged violation within those 60 days despite utilizing reasonable diligence.

March 7, 2019
Page 2

You e-mailed your Request for Review to this office on March 2, 2019, which is more than 60 days after you allege that the Board improperly took final action on matters that were not adequately identified on the agenda for its December 17, 2018, special meeting. Your Request for Review states that the minutes were made publicly available shortly after the Board approved them at its February 4, 2019, meeting, and asserts that "[a] person utilizing reasonable diligence would have discovered the alleged violation on or shortly after February 4, 2019. I am filing my Request for Review within 60 days of that date. Therefore, I believe the Request for Review is filed in a timely manner."¹

We disagree. February 4, 2019, was 11 days before the initial 60-day period for filing a Request for Review expired. A person who would have discovered facts concerning a violation within the initial 60-day period by using reasonable diligence may not avail himself or herself of the extended period for filing a Request for Review under the plain language of section 3.5(a) of OMA. Because you did not submit your Request for Review before the statutory period for doing so expired, this office lacks authority to review your allegations concerning the Board's December 17, 2018, special meeting.

Accordingly, this file is closed. If you have any questions, you may contact me at the Chicago address on the first page of this letter or at (312) 814-6437.

Very truly yours,

LEAH BARTELT
Assistant Attorney General
Public Access Bureau

57090 o no fi war mun

cc: Mr. Emil D. Haddad
Chairman, Board of Police and Fire Commissioners
City of Elmhurst
209 North York Street
Elmhurst, Illinois 60126

¹E-mail from [REDACTED] to Public Access [Bureau, Office of the Attorney General (March 2, 2019).