

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

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August 9, 2013

OML 2013 – 115

Catherine M. Yamamoto, Chair
Williamstown Affordable Housing Committee
31 North Street
Williamstown, MA 01267

RE: Open Meeting Law Complaint

Dear Ms. Yamamoto:

This office received a complaint from Kenneth Swiatek, dated June 3, 2013. The complaint alleges that the Williamstown Affordable Housing Committee (the “Committee”) violated the Open Meeting Law, G.L. c. 30A, §§ 18-25. Specifically, the complaint alleges that the Committee deliberated outside of an open meeting when the Chair¹ emailed the Committee members and asked them if they wanted to sign their names to a letter-to-the-editor that she had drafted. Mr. Swiatek filed his complaint with the Committee on or about March 14, 2013. The Committee responded to the complaint by letter dated April 25, 2013.²

In reaching our determination, we reviewed the March 14, 2013 complaint filed with the Committee; the Committee’s May 10, 2013 response; the June 3, 2013 complaint filed with our office; emails sent by the Chair to the rest of the Committee on March 3, 2013 and March 4, 2013, attaching the draft letter-to-the-editor; and the minutes from the Committee’s April 24, 2013 meeting.

Following our review, we find that the Committee violated the Open Meeting Law by deliberating via email. The Committee is a six-member public body, thus four constitutes a quorum. The Chair sent four emails to the five other Committee members between March 3, 2013 and March 4, 2013, included drafts of a letter-to-the-editor that she was writing, and asked the other Committee members if they would like to have their names attached. This is a violation because the emails were sent to a quorum of the body’s members and concerned public

¹ For purposes of clarity, we will refer to you in the third person.

² We remind the Board of its obligation to respond to an Open Meeting Law complaint within 14 business days of receipt. See G.L. c. 30A, § 23(b).



business within the Committee's jurisdiction. See OML 2011-37; OML 2011-35.³ In response to the complaint, the Committee acknowledged the Open Meeting Law violation during its April 24, 2013 meeting. The minutes from that meeting read as follows:

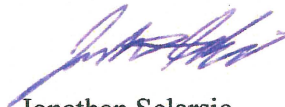
"The [C]ommittee responded to a complaint filed by Ken Swiatek of Williamstown, alleging that the [C]ommittee members violated the state Open Meeting Law by sending a letter to the editor signed by all members when this had been discussed at no posted meeting... The [C]ommittee acknowledges its error and apologizes for its violation."

We commend the Committee for acknowledging its error. We order immediate and future compliance with the Open Meeting Law, and order the public release of the emails in question within 30 days of receipt of this determination, if the Committee has not already done so.

Where, as occurred here, a public body acknowledges a violation in response to a complaint filed with that body, we strongly encourage complainants to reconsider whether further review by this office remains necessary.

We now consider this matter closed. If you have any questions regarding this determination, please contact our office at (617) 963-2540.

Sincerely,



Jonathan Sclarsic
Assistant Attorney General
Division of Open Government

cc: Kenneth Swiatek

This determination was issued pursuant to G.L. c. 30A, § 23(c). A public body or any member of a body aggrieved by this order may obtain judicial review through an action filed in Superior Court pursuant to G.L. c. 30A, § 23(d). The complaint must be filed in Superior Court within twenty-one days of receipt of this order.

³ Open Meeting Law determinations may be found at the Attorney General's website, www.mass.gov/ago/openmeeting.