



STATE OF RHODE ISLAND
OFFICE OF THE ATTORNEY GENERAL

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Peter F. Neronha
Attorney General

VIA EMAIL ONLY

August 12, 2020
OM 20-41

Steve Ahlquist

Patrick McBurney, Esquire
Legal Counsel, Central Falls Detention Facility Corporation

RE: Ahlquist v. Central Falls Detention Facility Corporation

Dear Mr. Ahlquist and Attorney McBurney:

We have completed our investigation into the Open Meetings Act (“OMA”) complaint filed by Mr. Steve Ahlquist (“Complainant”) against the Central Falls Detention Facility Corporation (“CFDFC”). For the reasons set forth herein, we find that the CFDFC did not violate the OMA.

Background and Arguments

The Complainant alleges that the CFDFC violated the OMA by failing to provide access to a remote meeting it held on May 21, 2020. The Complainant contends that he “and several other people spent some time trying to access this meeting, which was not officially cancelled or rescheduled.”¹ Apparently Complainant was never able to access the meeting, as he concludes that the meeting “either did not happen or was not aired via Zoom.”

The CFDFC maintains that it conducted the meeting as scheduled on May 21, 2020 and that it properly offered “adequate alternative means” for the public to access the meeting via Zoom, including “providing the public with a web-link and call-in information that could be used to access the meeting[.]” The CFDFC notes that the access “information was used by multiple people, including [CFDFC] Board members, staff, counsel for the Board, and members of the public[.]”

¹ The Complaint does not elaborate regarding how Complainant attempted to access the meeting.

The CFDFC also provided this Office with the posted agenda for the meeting, a link² to the recording of the meeting held on May 21, 2020, and affidavits from Mr. David DuPont and Mr. Brandon Castaldi, who provide information technology services to the CFDFC and who collectively attest that they were both present at the meeting and did not receive any reports regarding issues with accessing the meeting.

The Complainant did not file a rebuttal.

Relevant Law and Findings

When we examine an OMA complaint, our authority is to determine whether a violation of the OMA has occurred. *See* R.I. Gen. Laws § 42-46-8. In doing so, we must begin with the plain language of the OMA and relevant caselaw interpreting this statute.

Unless exempt, the OMA requires that all meetings of public bodies be held open to the public. *See* R.I. Gen. Laws § 42-46-3. In response to the COVID-19 pandemic, Governor Gina Raimondo issued Executive Order 20-25, modifying the OMA and requiring public bodies “to make provisions to ensure public access to the meeting of the public body for members of the public through adequate, alternative means[,]” including, “without limitation, providing public access through telephone, internet, or satellite-enabled audio or video conferencing or any other technology that enables the public to clearly follow the proceedings of the public body while those activities are occurring.” EO 20-25 (April 15, 2020).³ This Executive Order was extended by Executive Order 20-34 and was in effect when the May 21, 2020 meeting took place.

Here, the undisputed evidence indicates that the CFDFC held its meeting on May 21, 2020 at 5:30 p.m. through electronic means pursuant to the Governor’s Executive Order. The only remaining issue is whether the CFDFC provided adequate, alternative means for the public to access the meeting, as required by the Executive Order. The CFDFC provided uncontested evidence that it posted the meeting agenda — including the web-link and dial-in information necessary to remotely access the meeting — on the Secretary of State’s website on May 19, 2020. The CFDFC also provided undisputed evidence that the meeting was accessed by Board members, staff, legal counsel for the Board, and several members of the public. We were not presented with any evidence to the contrary. Although the Complainant asserts that he and other unidentified people were apparently unable to access the meeting, we were not presented with any evidence indicating that the CFDFC failed to provide public access. The Complainant did not submit a rebuttal or otherwise provide evidence that his asserted inability to access the meeting was due to the CFDFC not providing public access. Because the undisputed evidence establishes that the May 21, 2020 meeting was held remotely and was accessible to the public via Zoom, we find no violation.

²https://us02web.zoom.us/rec/share/xPBqKOnw631LbdLW40_tBZJiI53CX6a81CBM__sIz0zNs e5foMEapDGKNxqVB1__?startTime=1590096344000

³ Absent the Executive Order, the OMA typically does not permit meetings to be conducted by electronic means except in certain, limited circumstances set forth in the statute. *See* R.I. Gen. Laws § 42-46-5(b).

Conclusion

Although the Office of Attorney General has found no violations in this matter and will not file suit, nothing in the OMA precludes an individual from pursuing an OMA complaint in the Superior Court. The Complainant may do so within ninety (90) days from the date of the Attorney General's closing of the complaint or within one hundred eighty (180) days of the alleged violation, whichever occurs later. R.I. Gen. Laws § 42-46-8. Please be advised that we are closing our file as of the date of this letter.

We thank you for your interest in keeping government open and accountable to the public.

Sincerely,

PETER F. NERONHA
ATTORNEY GENERAL

By:

/s/Katherine Connolly Sadeck
Katherine Connolly Sadeck
Special Assistant Attorney General