



State of Rhode Island and Providence Plantations

DEPARTMENT OF ATTORNEY GENERAL

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Peter F. Kilmartin, Attorney General

March 25, 2014
OM 14-10

Mr. Raymond Budziak

RE: Budziak v. Coventry Fire District

Dear Mr. Budziak:

The investigation into your Open Meetings Act (“OMA”) complaint filed against the Coventry Fire District (“Fire District”) is complete. By correspondence dated January 31, 2014, you allege the Fire District violated the OMA when it refused to allow you to attend a public meeting on January 30, 2014.

In response to your complaint, we received a substantive response from the legal counsel for the Fire District, Arthur G. Capaldi, Esquire. Attorney Capaldi states, in pertinent part:

“The agenda [for the January 30, 2014 meeting] clearly specified that the board would go into executive session to discuss the grievance filed by the union.

In accordance with 42-46-4 RIGL, the board voted to go into executive session to discuss the grievance.

The meeting was opened in the Training Room of the fire station and Mr. Budziak was present in that room. The board left that room to go into a tiny room adjacent to the Training Room to discuss the grievance. When the union members came to the meeting, the room was not appropriate to continue the discussion. The Board and the union members went into the larger Training Room.

The board was still in executive session and the grievance was still being discussed. Mr. Budziak (the only taxpayer in the room) was asked to go into the adjoining apparatus bay while the executive

session continued. It was clearly explained to Mr. Budziak that the board would go back into open meeting after the executive session concluded.

The only people in attendance during the executive session in the Training Room were the union members who filed the grievance and the board.

When the board went back into public session, Mr. Budziak had left the fire station. No action was taken by the board in executive session or during the public meeting concerning the grievance.”

By letter dated February 23, 2014, you filed a reply where you take issue with the manner in which you were “instructed” to leave the training room and the conditions of the garage bay where you were “instructed” to go. You also assert that the meeting was being held in the training room – without you – and that this is the “same room where the meeting was opened.” You claim this is a “public room.”

At the outset, we note that in examining whether a violation of the OMA has occurred, we are mindful that our mandate is not to substitute this Department’s independent judgment concerning whether an infraction has occurred, but instead, to interpret and enforce the OMA as the General Assembly has written this law and as the Rhode Island Supreme Court has interpreted its provisions. Furthermore, our statutory mandate is limited to determining whether the Fire District violated the OMA. See R.I. Gen. Laws § 42-46-8. In other words, we do not write on a blank slate.

The OMA states that unless exempt, all public bodies shall hold open meetings. See R.I. Gen. Laws § 42-46-3. A public body may hold a meeting closed to the public for one of the ten purposes enumerated in R.I. Gen. Laws § 42-46-5.

Based upon the evidence presented, it appears the Fire District opened its public meeting in the large so-called training room where you were seated. When the Fire District convened into closed or executive session, it initially convened into a smaller room adjacent to the training room. When union members arrived to join the executive session, which concerned a grievance filed by the union, it was determined that the smaller room was not adequate to accommodate the number of people and that the Fire District needed to convene its executive session in the larger training room where you were seated. You were asked, or as you put it “instructed,” to leave the larger training room and wait in an adjoining apparatus bay.

It appears you do not contest the propriety of the executive session, but rather claim that you were improperly excluded from the open session, i.e., the part of the meeting where the Fire District convened with union members in the training room. Based upon the evidence presented, however, the portion of the meeting where the Fire District convened into the larger training room with the union members was part of the executive session. Respectfully, you present no

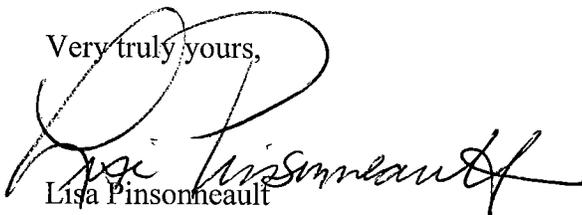
evidence to contradict this assertion, and accordingly, since we find that this portion of the meeting was an executive session, the Fire District did not violate the OMA by excluding you.

Lastly, we would be remiss if we did not address an issue discussed in your complaint. As noted above, you also indicate that the conditions of the apparatus bay were poor, i.e., the room was dimly lit and minimally heated with a cold cement floor where people had been previously smoking. You also take issue with the Fire District's representations that you were "asked" to leave the training room. For the reasons discussed above, our focus remains on the OMA and the allegations that you raise concerning poor treatment simply do not implicate the OMA. While this Department makes no finding whether the Fire District did indeed treat you, or any other citizen, in a poor or disrespectful manner, it suffices that this Department would expect that all public bodies accord all citizens attending a public meeting with proper respect.

Nothing within the OMA prohibits an individual or entity from obtaining legal counsel for the purpose of instituting injunctive or declaratory relief in Superior Court. See R.I. Gen. Laws § 42-46-8(c). The OMA allows the complainant to file a complaint 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. See id. Please be advised that we are closing this file as of the date of this letter.

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

Very truly yours,



Lisa Pinsonneault
Special Assistant Attorney General
Extension 2297

LP/pl

Cc: Arthur G. Capaldi, Esquire