



State of Rhode Island and Providence Plantations

DEPARTMENT OF ATTORNEY GENERAL

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Peter F. Kilmartin, Attorney General

November 19, 2014
OM 14-37

Mr. William Ryan

Re: Ryan v. Warren Housing Authority

Dear Mr. Ryan:

I am in receipt of your Open Meetings Act (“OMA”) complaint filed against the Warren Housing Authority (“Housing Authority”). By undated correspondence, but received in our office on July 21, 2014, you allege the Housing Authority violated the OMA when a quorum of the Housing Authority conducted public business outside the purview of the public. More specifically, you allege three (3) members of the five (5) member Housing Authority drafted a letter, came to a consensus and approached the Town Council President and the Town Manager. You are a member of the Housing Authority and allege these violations occurred the week of July 13, 2014.

In response to your complaint, we received a response from the Housing Authority’s legal counsel, Deidre E. Carreno, Esquire, who provided affidavits from Mr. Alfred DeAngelis, Vice Chair of the Housing Authority, Ms. Jeanne Cotta, Resident Commissioner of the Housing Authority and Mr. Robert Remy, Commission of the Housing Authority.

Mr. DeAngelis states, in pertinent part:

“Over the course of several months, beginning in November, 2013, I became concerned with certain issues arising within the Warren Housing Authority.

Although I requested, multiple times, that * * * a meeting of the Board [be scheduled] to discuss these issues, no meeting was scheduled.

Once it became apparent that these issues would not be resolved internally, I sought the advice of [Mr.] Christopher Stanley, President of the Warren Town Council.

I sought counsel from the Town Council because I was appointed to the Board of Commissioners by the Town Council and I viewed the Town Council as my ‘boss.’

Mr. Stanley suggested that I write a letter to the Town Manager for the Town of Warren.

I drafted a letter, dated July 16, 2014, to [Mr.] Tom Gordon, the Town Manager, and copied Mr. Stanley and the remaining members of the Town Council.

In the letter, I explained my concerns regarding issues ongoing with the Warren Housing Authority and asked Mr. Gordon to intervene.

I telephoned [Ms.] Jeanne Cotta * * * and informed her that I had drafted a letter to the Town Manager and I asked her to read it, and if she agreed with the contents of the letter, to sign it.

I did not discuss the details of the letter with Ms. Cotta.

* * *

I telephoned [Mr.] Robert Remy * * * and informed him that I had drafted a letter to the Town Manager and I asked him to read it, and if he agreed with the contents of the letter, to sign it.

I did not discuss the details of the letter with Mr. Remy.

* * *

I gave the letter to Ms. Cotta, who reviewed the letter and signed it.

* * *

I offered the letter to Mr. Remy, who reviewed the latter and signed it.”

Mr. Remy states, in pertinent part:

“Mr. DeAngelis presented me with a letter dated July 16, 2014 and addressed to [Mr.] Tom Gordon, Town Manager for the Town of Warren, and copies to [Mr.] Chris Stanley, Warren Town Council President, and the remaining Town Council members.

I reviewed the letter, and because I agreed with the contents of the letter, I signed it.”¹

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 Housing Authority violated the OMA. See R.I. Gen. Laws § 42-46-8. In other words, we do not write on a blank slate.

The OMA explains that “[i]t is essential to the maintenance of a democratic society that public business be performed in an open and public manner and that the citizens be advised of and aware of the

¹ The pertinent parts of Ms. Cotta’s affidavit are substantially similar to the contents set forth in Mr. Remy’s affidavit and, as such, are not repeated in this finding.

performance of public officials and the deliberations and decisions that go into the making of public policy.” R.I. Gen. Laws § 42-46-1. In order for the OMA to apply, a “quorum” of a “public body” must convene for a “meeting” as the OMA defines those terms. Fischer v. Zoning Board of the Town of Charlestown, 723 A.2d 294 (R.I. 1999). The OMA broadly defines a “public body” to be “any department, agency, commission, committee, board, council, bureau, or authority or any subdivision thereof of state or municipal government or any library that funded at least twenty-five percent (25%) of its operational budget in the prior budget year with public funds, and shall include all authorities defined in § 42-35-1(b).” R.I. Gen. Laws § 42-46-2(c). A “quorum” is defined as “a simple majority of the membership of a public body.” R.I. Gen. Laws § 42-46-2(d). A “meeting” is defined as “the convening of a public body to discuss and/or act upon a matter over which the public body has supervision, control, jurisdiction, or advisory power.” R.I. Gen. Laws § 42-46-2(a).

It appears, based upon the evidence presented, that a letter was written by Housing Authority member, Mr. DeAngelis, who then showed the letter separately to two (2) other Housing Authority members, Ms. Cotta and Mr. Remy. It appears Ms. Cotta and Mr. Remy each signed the letter separately without discussion. Upon this Department’s request, a copy of the letter was provided to this Department. The contents of the letter need not be set forth because they are not relevant to this Department’s finding, other than that its contents involve matters over which the Housing Authority has supervision, control, jurisdiction, or advisory power.” R.I. Gen. Laws § 42-46-2(a).

This Department was faced with a similar set of facts in International Brotherhood of Police Officers [the I.B.P.O.] v. Barrington Town Council, OM 96-01. In that finding, the I.B.P.O. alleged that the Barrington Town Council had violated the OMA regarding a “Letter to the Editor,” which appeared in the Barrington Times and was signed by four of the five Council members. The evidence revealed that one Town Council member wrote the letter who then faxed the letter to the other Council members asking whether they would sign the letter. The evidence revealed that Council members had no discussions, either in person or by telephone, regarding the letter. This Department concluded that the Town Council violated the OMA because, while there was no physical “convening,” the OMA specifically prohibits the use of electronic communications to circumvent the spirit or the requirements of the OMA. This latter provision would preclude communicating via facsimile or telephone concerning matters over which a public body has supervision, control jurisdiction or advisory power. See also, D’Andrea v. Newport School Committee, OM 98-11 (violation of the OMA when Committee members used head signals to vote on a matter).

Similarly, in the instant case, the evidence reveals that a letter was written and signed by one of the Housing Authority members. Although it appears no discussions amongst a quorum of the Housing Authority members occurred, the letter was circulated to two (2) other Housing Authority members who read and signed the letter. As indicated supra, since the Housing Authority is comprised of five (5) members, three (3) members would constitute a quorum. The fact that the instant letter was hand delivered to Housing Authority members, rather than sent by facsimile, is of no moment to our analysis. We conclude that the Housing Authority violated the OMA by communicating via correspondence concerning public business.

Upon a finding of an OMA violation, the Attorney General “may file a complaint on behalf of the complainant in the superior court against the public body.” R.I. Gen. Laws § 42-46-8(a). “The court may issue injunctive relief” and/or “may impose a civil fine not exceeding five thousand dollars (\$5,000) against a public body or any of its members” for a willful or knowing violation. R.I. Gen. Laws § 42-46-8(d).

In this case, we find neither remedy appropriate. Regarding injunctive relief, the members of the Housing Authority who wrote/signed the letter to the Town Council, requested that all five (5) members of the Housing Authority be informed of any action taken by the Town Council. As such, we conclude that there was no action that needs to be voided. Injunctive relief is therefore not appropriate. Based upon the totality of the evidence, we find that this violation was not willful or knowing. In doing so, and although not determinative, we observe that we have reviewed our files and have found no recent OMA violations against the Housing Authority. This finding serves as notice to the Housing Authority, however, that the conduct discussed herein is unlawful and may serve as evidence of a willful or a knowing violation in any similar future situation.

Although the Attorney General will not file suit in this matter, nothing in the OMA precludes an individual from pursuing an OMA complaint in the Superior Court. The complainant may file a suit "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(c). 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.

Very truly yours,



Lisa A. Pinsonneault
Special Assistant Attorney General
Extension 2297

LP/pl

Cc: William Conley, Jr., Esq.