



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

September 3, 2024

PUBLIC ACCESS OPINION 24-010
(Requests for Review 2024 PAC 81711, 81713, 81822, 82032, 82045)

OPEN MEETINGS ACT:
Duty to Make Meetings Convenient
and Open to the Public

Ms. Peggy Kelly Schultz
1259 Heather Road
Homewood, Illinois 60430

Mr. Dannie Lee
15249 Dante Avenue
Dolton, Illinois 60419

Ms. Rosie Leftwich
15230 Irving Avenue
Dolton, Illinois 60419

The Honorable Tiffany A. Henyard
Mayor
Village of Dolton
14122 Martin Luther King Jr. Drive
Dolton, Illinois 60419

Dear Ms. Schultz, Mr. Lee, Ms. Leftwich, and Ms. Henyard:

This binding opinion is issued by the Attorney General pursuant to section 3.5(e) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(e) (West 2022)). For the reasons discussed below, this office concludes that the Village of Dolton (Village) Board of Trustees (Board) violated OMA by failing to make its June 3, 2024, and July 1, 2024, meetings convenient and open to the public.¹

¹In referring to the "Board" in this binding opinion, this office acknowledges that the Board was generally divided during the meetings at issue between the mayor and trustees who supported the mayor on one side and the remaining trustees on the other side. Nonetheless, Requests for Review of alleged OMA violations are properly lodged against a public body as a whole. 5 ILCS 120/3.5(a) (West 2022) ("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." (Emphasis added.)). Therefore, this office construes allegations of OMA violations by the Village's mayor or administration as allegations that their actions caused the Board as a whole to violate OMA on the dates in question.

Mr. Dannie Lee, Ms. Peggy Kelly Schultz, Ms. Rosie Leftwich
The Honorable Tiffany A. Henyard
September 3, 2024
Page 2

BACKGROUND

This office received three similar Requests for Review alleging that the Board failed to make its June 3, 2024, meeting convenient and open to the public. In a Request for Review (2024 PAC 81711) submitted to the Public Access Bureau on June 5, 2024, Mr. Dannie Lee alleged, in relevant part:

We have many senior citizens and a number of disabled taxpayers * * *. We're VERY concerned with Mayor Henyard's administration bringing in hired, out of town supporters and placing them strategically in a secured area to harass her opponents. Secondly Police Chief Lacey stalked the room and REPEATEDLY Threatens to Clear the room when he or his bosses perceive support such as applauding anything said that the administration doesn't approve of. * * * Also, despite several venues available in Dolton [t]he administration barricaded streets, set up entry blockages, made us stand in line for an hour to gain entry into the village hall they have limited to around 40 seats. There was a military like contingent of law enforcement both in and out of the building creating an intimidating atmosphere * * *. Some people had to wait outside because they [couldn't] get into the hall[,] which was totally unnecessary. They barricaded the parking lot forcing the * * * seniors and disabled to walk or hobble up to 2 blocks.^[2]

Also on June 5, 2024, Ms. Peggy Kelly Schultz submitted a Request for Review (2024 PAC 81713) to the Public Access Bureau alleging:

I was refused access to the Village of Dolton Board of Trustees meeting due to inadequate space in the meeting room. No alternative accommodations were offered such as an additional room, live stream of meeting or moving the meeting to another location. At least 20 or 30 other members of the public were denied access into the building.

In addition, the public parking lot and public street parking were blocked with large plastic drums, traffic barricades and police tape.

²E-mail from Dannie Lee to whom it may concern [Public Access Bureau, Office of the Attorney General] (June 5, 2024).

Mr. Dannie Lee, Ms. Peggy Kelly Schultz, Ms. Rosie Leftwich
The Honorable Tiffany A. Henyard
September 3, 2024
Page 3

People with disabilities parking spots were blocked also. There were many senior citizens and others in line with walkers, canes, etc. It was 86 degrees and they were forced to wait in the heat and refused entry into the building.^[3]

Finally, on June 14, 2024, Ms. Rosie Leftwich submitted a Request for Review (2024 PAC 81822) alleging that "Mayor Tiffany A Henyard provided seating for only 40 residents. Other residents including seniors and handicapped were turned away because she did not provide adequate space for all residents."⁴ Ms. Leftwich also alleged that surrounding streets and the parking lot were blocked off, inconveniencing residents.⁵

On June 10, 2024, the Public Access Bureau sent copies of Mr. Lee's and Ms. Schultz's Requests for Review to Ms. Henyard in her capacity as the head of the Board and to Village Administrator Keith Freeman. The Public Access Bureau also sent the Board a letter in each matter asking it to:

[P]lease provide this office with a copy of the agenda, open session minutes (in draft form if necessary), any recording of the open session of the meeting that may have been made by the Village, and any safety or accessibility plan the Village/its police created for the meeting. Please also provide a detailed written answer to the allegation that the Board did not make the meeting space convenient and open to the public, describing the size of the crowd that the Board anticipated would attend the meeting as well as any efforts the Board made to enhance or ensure the convenience and openness of the meeting (such as, for example, additional seating, overflow capacity with working audio, consideration of a larger meeting room, making clear and short pathways to the meeting for elders and people with disabilities, etc.).^[6]

³E-mail from Peggy Kelly Schultz to Leah Bartelt, Public Access Counselor Office of the Attorney General (June 5, 2024).

⁴E-mail from Rosie Leftwich to Sir [Public Access Bureau, Office of the Attorney General] (June 14, 2024).

⁵E-mail from Rosie Leftwich to Sir [Public Access Bureau, Office of the Attorney General] (June 14, 2024).

⁶Letters from Joshua M. Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General, to The Honorable Tiffany A. Henyard, Mayor, Village of Dolton (June 10, 2024), at 2.

Mr. Dannie Lee, Ms. Peggy Kelly Schultz, Ms. Rosie Leftwich
The Honorable Tiffany A. Henyard
September 3, 2024
Page 4

In the inquiry letters related to Ms. Schultz's and Ms. Leftwich's files, this office also asked the Board to address the allegation that it impeded access to the meeting by having surrounding streets and parking spaces blocked off.⁷ In the inquiry letter related to Mr. Lee's file, this office further asked the Board to "please address the allegation that the Board fostered a hostile environment at the meeting[.]"⁸

On July 3, 2024, Mr. Lee and Ms. Leftwich each separately submitted a new Request for Review (2024 PAC 82032 and 82045 respectively) alleging that the Board again violated OMA by failing to make its July 1, 2024, meeting convenient and open to the public.⁹ They alleged that members of the public were again improperly turned away from the meeting because of the limited seating capacity of the room, with no apparent adjustments made by the Board to ensure that interested members of the public could attend the meeting despite the inadequacy of the meeting arrangements for the prior meeting.¹⁰ On July 5, 2024, the Public Access Bureau sent a copy of each new Request for Review to Ms. Henyard and Mr. Freeman and also sent them a new consolidated inquiry letter asking them to respond in writing to the allegation that the Board did not make the July 1, 2024, meeting convenient and open to the public.¹¹

On July 8, 2024, the Board sent this office a written answer from the Acting Chief of Police of the Dolton Police Department, Lewis Lacey,¹² and a copy of the police report and

⁷Letter from Joshua M. Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General, to The Honorable Tiffany A. Henyard, Mayor, Village of Dolton (June 10, 2024), at 2; Letter from Joshua M. Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General, to The Honorable Tiffany A. Henyard, Mayor, Village of Dolton (June 20, 2024), at 2.

⁸Letter from Joshua M. Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General, to The Honorable Tiffany A. Henyard, Mayor, Village of Dolton (June 10, 2024), at 2.

⁹E-mail from Dannie Lee to [Joshua] Jones, [Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General] (July 3, 2024); e-mail from Rosie Leftwich to [Joshua] Jones, [Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General] (July 3, 2024).

¹⁰E-mail from Dannie Lee to [Joshua] Jones, [Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General] (July 3, 2024); e-mail from Rosie Leftwich to [Joshua] Jones, [Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General] (July 3, 2024).

¹¹Letter from Joshua M. Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General, to The Honorable Tiffany A. Henyard, Mayor, Village of Dolton (July 5, 2024).

¹²Letter from Lewis Lacey, Acting Chief of Police, Village of Dolton Police Department, to Office of the Illinois Attorney General, Attention: [Joshua] M. Jones, Deputy Bureau Chief, Public Access Bureau (July 8, 2024).

Mr. Dannie Lee, Ms. Peggy Kelly Schultz, Ms. Rosie Leftwich
The Honorable Tiffany A. Henyard
September 3, 2024
Page 5

alleged piece of hate mail referenced therein.¹³ The Board also sent this office a copy of a letter from the Fire Chief of the Dolton Fire Department, Steven A. McCain, to Mr. Freeman about the occupancy of the meeting room.¹⁴ Because that letter was not addressed to this office, this office e-mailed Mr. Freeman and asked if the Board intended for it to be part of its answer that is required to be provided to Mr. Lee and Ms. Schultz,¹⁵ noting that this office has a duty to keep other records obtained from a public body pursuant to a Request for Review confidential.¹⁶

Also on July 8, 2024, this office forwarded a copy of Mr. Lacey's answer to Mr. Lee and Ms. Schultz and notified them of their right to reply.¹⁷ On July 9, 2024, Mr. Lee submitted a reply.¹⁸ On July 10, 2024, Ms. Schultz submitted a reply,¹⁹ in which she provided a link to a third-party video recording of the June 3, 2024, meeting.²⁰ On July 11, 2024, this office e-mailed Ms. Henyard and Mr. Freeman to clarify if the Village's response in the other two files was also intended for Ms. Leftwich's Request for Review.²¹ On that same date, the Board re-sent the same materials and stated: "The fire department letter serves as a document to address the occupancy and police department letter serves as a document to address barriers and street

¹³Incident Report, Dolton Police Department, Ofc. T Malone, Dolton, Illinois, Case No. D24-16696, July 7, 2024, 6:32 p.m.

¹⁴Letter from Steven A. McCain, Fire Chief, Dolton Fire Department, to Administrator Freeman (undated).

¹⁵E-mail from Joshua Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General, to [Keith] Freeman (July 8, 2024).

¹⁶5 ILCS 120/3.5(g) (West 2022) ("Records that are obtained by the Public Access Counselor from a public body for purposes of addressing a request for review under this Section 3.5 may not be disclosed to the public, including the requester, by the Public Access Counselor. Those records, while in the possession of the Public Access Counselor, shall be exempt from disclosure by the Public Access Counselor under the Freedom of Information Act.").

¹⁷Letters from Joshua M. Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General, to Dannie Lee and Peggy Kelly Schultz, respectively (July 8, 2024).

¹⁸E-mail from Dannie Lee to [Joshua] Jones [Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General] (July 9, 2024).

¹⁹Letter from Peggy Kelly Schultz [to Joshua Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General] (dated July 9, 2024, transmitted via e-mail July 10, 2024).

²⁰Dolton Trustees, *Dolton Trustees is live!*, YouTube (livestreamed June 3, 2024), <https://www.youtube.com/watch?v=z2oE-1sII48>.

²¹E-mail from Joshua Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General, to [Tiffany] Henyard and [Keith] Freeman (July 11, 2024).

Mr. Dannie Lee, Ms. Peggy Kelly Schultz, Ms. Rosie Leftwich
The Honorable Tiffany A. Henyard
September 3, 2024
Page 6

blockage."²² Still on that same date, this office forwarded a copy of Mr. Lacey's letter to Ms. Leftwich and notified her of her opportunity to reply.²³ On July 13, 2024, Ms. Leftwich submitted a reply.²⁴

On July 17, 2024, the Board forwarded to Mr. Lee, Ms. Schultz, and Ms. Leftwich the complete records it furnished to this office, including a copy of the police report referenced in Mr. Lacey's letter, a copy of the piece of alleged hate mail, and the Fire Chief's letter.²⁵ On July 18, 2024, the Board confirmed that those materials were also meant to serve as its response to the allegations concerning its July 1, 2024, meeting.²⁶ On July 19, 2024, this office notified Mr. Lee and Ms. Leftwich of their respective opportunities to submit a reply concerning the July 1, 2024, meeting in response to the Board answer previously forwarded to them.²⁷ On July 19, 2024, Mr. Lee submitted a reply,²⁸ and Ms. Leftwich submitted a reply the following day.²⁹ On July 23, 2024, having since received the remainder of the materials comprising the Board's answer, Ms. Schultz submitted another reply.³⁰

²²E-mail from foia@vodolton.org to [Joshua Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General] (July 11, 2024).

²³E-mail from Joshua Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General, to [Rosie] Leftwich (July 11, 2024).

²⁴E-mail from Rosie Leftwich to [Joshua] Jones [Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General] (July 13, 2024).

²⁵E-mail from foia@vodolton.org to [Joshua Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General, Dannie Lee, Peggy Schultz, and Rosie Leftwich] (July 17, 2024).

²⁶E-mail from foia@vodolton.org to [Joshua Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General] (July 18, 2024).

²⁷E-mail from Joshua Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General, to [Dannie] Lee and [Rosie] Leftwich (July 19, 2024).

²⁸E-mail from Dannie Lee to [Joshua] Jones [Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General] (July 19, 2024).

²⁹E-mail from Rosie Leftwich to [Joshua] Jones [Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General] (July 20, 2024).

³⁰E-mail from Peggy Kelly Schultz to Joshua Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General] (July 23, 2024).

On August 2, 2024, the Public Access Bureau extended the time in which to issue a binding opinion by 21 business days, to September 3, 2024, pursuant to section 3.5(e) of OMA.³¹

ANALYSIS

Section 1 of OMA (5 ILCS 120/1 (West 2022)) declares:

It is the public policy of this State that public bodies exist to aid in the conduct of the people's business and that the people have a right to be informed as to the conduct of their business. In order that the people shall be informed, the General Assembly finds and declares that it is the intent of this Act to ensure that the actions of public bodies be taken openly and that their deliberations be conducted openly.

To effectuate this public policy, section 2.01 of OMA (5 ILCS 120/2.01 (West 2022)) provides that "[a]ll meetings required by this Act to be public shall be held at specified times and places which are convenient and open to the public." "By its plain terms, section 2.01 requires a venue that is not only 'open,' but 'convenient,' to the public." *Gerwin v. Livingston County Board*, 345 Ill. App. 3d 352, 359 (2003). Thus, "an open meeting in an inconvenient place violates the Act." *Gerwin*, 345 Ill. App. 3d at 359.

In *Gerwin*, the plaintiffs alleged that a county board violated section 2.01 of OMA by holding a meeting in an inconvenient place. *Gerwin*, 345 Ill. App. 3d at 353. The board was on notice that there was heightened public interest in attending its meetings because of its consideration of a controversial landfill expansion plan, but the meeting was not moved to a larger location or reconfigured to provide additional capacity. *Gerwin*, 345 Ill. App. 3d at 355. Dozens of members of the public were relegated to the area outside the meeting room, which the plaintiffs alleged was "'close, hot, airless, and uncomfortable.'" *Gerwin*, 345 Ill. App. 3d at 356. The plaintiffs also alleged that despite several available alternatives, the board "made no arrangements to accommodate them." *Gerwin*, 345 Ill. App. 3d at 356.

Addressing the meaning of "convenient," the court stated that "[a] meeting can be open in the sense that no one is prohibited from attending it, but it can be held in such an ill-suited, unaccommodating, unadvantageous place that members of the public, as a practical matter, would be deterred from attending it." *Gerwin*, 345 Ill. App. 3d at 361. Still, the court found that "[i]t would be unreasonable to suppose the legislature intended * * * that public

³¹Letter from Joshua M. Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General, to Dannie Lee, Peggy Kelly Schultz, Rosie Leftwich, and The Honorable Tiffany A. Henyard, Mayor, Village of Dolton (August 2, 2024).

bodies hold their meetings 'at such locations as are sufficient to accommodate *all* interested members of the public, such that they may see and hear all proceedings in reasonable comfort and safety.'" (Emphasis in original.) *Gerwin*, 345 Ill. App. 3d at 361. Accordingly, what section 2.01 requires instead is "reasonable accessibility." [Citation.]." *Gerwin*, 345 Ill. App. 3d at 362 ("Renting a football stadium for public meetings might be inconvenient, or unadvantageous, to the public as a whole because of the cost. By the same token, holding public meetings in a small room might be inconvenient to the public because persons wanting to attend would have difficulty gaining admittance."). Because the reasonableness of the meeting space was a question of fact that needed to be explored, the court held that the trial court had improperly dismissed the plaintiffs' claims. *Gerwin*, 345 Ill. App. 3d at 362.

Like the public body in *Gerwin*, the Board had ample advance notice that its regular meeting space would be insufficient to reasonably accommodate the public. In the days before the Board's June 3, 2024, meeting, it was publicly reported that the Board might take action to override Ms. Henyard's May 6, 2024, veto of the Board's vote to hire former Chicago Mayor Lori Lightfoot to investigate the Village administration for alleged misconduct.³² Previously, the Board had found it necessary to adjourn shortly after its April 1, 2024, meeting commenced because there was not enough space in Village Hall to accommodate the members of the public who arrived to attend the meeting.³³ Again at the May 6, 2024, Board meeting at Village Hall, the news media reported that "[m]any who wanted to speak were forced to wait outside, because the room was completely full."³⁴ The meeting agenda for the ensuing June 3, 2024, meeting at Village Hall, posted June 1, 2024, notified the public that the Board intended to consider, among other items of significant public interest: "Override of Mayoral Veto issued on May 6, 2024[.]"³⁵

In the Board's written answer, Acting Police Chief Lacey stated:

Since taking office, critics of Mayor Henyard have made it extremely difficult to maintain an orderly flow at Village of Dolton Board meetings and informative events held at Village Hall. These

³²Paris Schutz, *Lightfoot: Investigation into Dolton, Tiffany Henyard could be back on*, FOX 32 Chicago (May 31, 2024, 9:49 p.m.), <https://www.fox32chicago.com/news/lightfoot-investigation-dolton-tiffany-henyard-could-back>.

³³Regina Waldroup, *Tensions flare at Dolton village board meeting as residents plead for mayor to step down*, NBC 5 Chicago (April 1, 2024, 10:29 p.m.), <https://www.nbcchicago.com/news/local/tensions-flare-at-dolton-village-board-meeting-as-residents-plead-for-mayor-to-step-down/3398819/>.

³⁴Jermont Terry, *Woman accusing south suburban village trustee of sex assault speaks outside board meeting*, CBS News Chicago (May 6, 2024, 10:28 p.m.), <https://www.cbsnews.com/chicago/news/woman-accusing-south-suburban-village-trustee-sex-assault-board-meeting/>.

³⁵Village of Dolton Board of Trustees, Regular Meeting, Agenda Item 14 (June 3, 2024).

disruptions have ranged from repetitive loud outbursts to personal insults toward the mayor to crowd chaos which occurred earlier in her term at events and at the end of board meetings held on June 3, 2024 and July 1, 2024. As a result, individuals have been removed, cited, arrested and meetings forced to end prematurely by law enforcement.

The disorderly conduct displayed at board meetings has been compounded by countless threats and racial and sexual derogatory [*sic*] communication Mayor Henyard has received through mail, phone calls and social media since taking office. In fact, Mayor Henyard received hate mail at her mother's residence on 7/7/24 (see attached police report #D24-16696 and mail). These actions have placed Mayor Henyard in reasonable fear for her safety. To address this substantiated fear, protocols were put in place for board meetings to prevent potential perpetrators of wrongdoing and ill-will towards the Mayor from having easy access to her.

Despite these safety precautions, members of law enforcement at the July 1, 2024 board meeting were diligent in providing a path for the elderly and disabled to enter the board meeting first and by ensuing [*sic*] their seating followed by members of the media and the general public. While the Dolton Police Department supports the 1st Amendment and the diversity of thought, those expressions must be communicated in a civil manner and must not interfere or disrupt public meetings or breach the peace.^[36]

The enclosed police report is from July 7, 2024—after both the June 3, 2024, and July 1, 2024, Board meetings—and it documents Ms. Henyard approaching police about alleged hate mail she received. The report states: "[T]he letter was received on Friday, July 5, 2024 and in the letter that was written in blue marker stated ' See you in prison your mother raised a Loser!! Your mother is a Loser!['] * * * [T]he envelope indicated that it was processed in Providence, RI on June 22, 2024."³⁷

³⁶Letter from Lewis Lacey, Acting Chief of Police, Village of Dolton Police Department, to Office of the Illinois Attorney General, Attention: [Joshua] M. Jones, Deputy Bureau Chief, Public Access Bureau (July 8, 2024).

³⁷Incident Report Supplement, Dolton Police Department, Lt. Harris, Dolton, Illinois, Case No. D24-16696, July 7, 2024, 6:32 p.m.

Mr. Dannie Lee, Ms. Peggy Kelly Schultz, Ms. Rosie Leftwich
The Honorable Tiffany A. Henyard
September 3, 2024
Page 10

Additionally, the Fire Chief's letter stated the following concerning the capacity of the meeting at Village Hall where the meetings in question were held:

[T]he occupancy number of "43" persons pertains to the assigned seating area designated inside the Village Hall meeting area located at 14122 S. Martin Luther King, Jr. Drive, Dolton, Illinois. The assigned seating area was created after the Dolton Police Department administration described as "credible threats" that were made toward representatives of the Village of Dolton.

The occupancy number of 43 of the assigned seating area is based on the square footage calculations of the area referencing NFPA 101, Life Safety Code Table 7.3.1.2

The occupancy number only reflects the designated assigned seating area, *excluding the remaining space of assembly located within the main floor inside the Village Hall meeting area.* (Emphasis added.)^[38]

This answer on behalf of the Board failed to furnish copies of the records this office requested and failed to address this office's specific and unambiguous questions concerning the size of the crowd that the Board anticipated would attend the meeting, the alleged improper blocking of streets and parking spaces, the alleged fostering of a hostile meeting environment, and any efforts the Board made to ensure the convenience and openness of the meeting (such as additional seating, overflow capacity with working audio, consideration of a larger meeting room, etc.). The answer did address the question about whether the Board ensured short and clear pathways for seniors and people with disabilities to enter the meeting, but only by claiming that it did so without providing evidence or explanatory details concerning the measures it took to accommodate those members of the public.

In reply, Mr. Lee argued as follows:

[T]he fire chiefs letter CLEARLY supports our claim that the current restrictions are completely inadequate and have been arbitrarily applied for the purpose of limiting dissent and/or discussion of village issues. A seating capacity of 43 people confirms the fact that a larger space is needed or a return to

³⁸Letter from Steven A. McCain, Fire Chief, Dolton Fire Department, to Administrator Freeman (undated).

standing room crowds as has been the case for decades needed.
(Emphasis in original.)^[39]

Ms. Leftwich replied by noting that the Board did not answer this office's questions concerning its June 3, 2024, meeting, and that it continued to use the same inadequate meeting room for its July 1, 2024, meeting.⁴⁰ Ms. Leftwich additionally asserted: "The letter from Chief of Police claims that residents were disruptive during Village of Dolton Board meetings. I disagree with this accusation. When residents clap in response to resident comment[s], he call[s] that disruptive and threatens to clear the room."⁴¹ Ms. Leftwich also argued that seating capacity of 43 people is insufficient for the Village's population of about 20,000 residents.⁴²

Ms. Schultz likewise replied to the Board's answer by noting that the Board did not answer this office's questions and by asserting that meeting arrangements are inadequate to accommodate the public.⁴³ She also similarly alleged that the silencing of dissent during the meeting, such as threats to clear the room in response to applause of criticism of the administration,⁴⁴ "ESCALATES the tension in the room, deliberately creates chaos, instills fear, and intimidates the residents." (Emphasis in original.)⁴⁵ Ms. Schultz argued that the video recording of the meeting "[d]emonstrates how a small room filled with members of the board, the administration, the police, and members of the public in conflict for several years,

³⁹E-mail from Dannie Lee to [Joshua] Jones [Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General] (July 19, 2024).

⁴⁰E-mail from Rosie Leftwich to [Joshua] Jones [Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General] (July 13, 2024).

⁴¹E-mail from Rosie Leftwich to [Joshua] Jones [Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General] (July 20, 2024).

⁴²E-mail from Rosie Leftwich to [Joshua] Jones [Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General] (July 20, 2024).

⁴³Letter from Peggy Kelly Schultz [to Joshua M. Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General] (dated July 9, 2024, transmitted via e-mail July 10, 2024), at [1].

⁴⁴Mr. Lee raised the same allegation: "Police Chief Lacey stalked the room and REPEATEDLY Threatens to Clear the room when he or his bosses perceive support such as applauding anything said that the administration doesn't approve of." (Emphasis in original.) E-mail from Dannie Lee to whom it may concern [Public Access Bureau, Office of the Attorney General] (June 5, 2024).

⁴⁵Letter from Peggy Kelly Schultz [to Joshua M. Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General] (dated July 9, 2024, transmitted via e-mail July 10, 2024), at [4].

Mr. Dannie Lee, Ms. Peggy Kelly Schultz, Ms. Rosie Leftwich
The Honorable Tiffany A. Henyard
September 3, 2024
Page 12

CONTRIBUTES to and FOSTERS a hostile environment[.]”⁴⁶ and asserted that “[p]roviding a larger space and an overflow room with a video” would be “a wonderful way to ensure the Village is abiding by the Open Meetings Act[.]” (Emphasis in original.)⁴⁷

It is apparent from the available information that the Board did not make its June 3, 2024, and July 1, 2024, meetings convenient and open to the public. It was clearly foreseeable that large crowds would attend the Board's meetings due to the array of controversies and conflicts involving the Village administration and Board. Moreover, there were multiple reports of the inadequacy of the Village Hall meeting space at the preceding Board meetings in April and May. Yet, the Board again and again held meetings in the same space without taking measures to accommodate more than a maximum of 43 individuals who wished to attend. In addition, the Board created impediments to public attendance at the June 3, 2024, and July 1, 2024, meetings. News media reported on July 14, 2024: “It's become more difficult for residents of south suburban Dolton to attend village board meetings. They now face roadblocks, barricades, long lines, capacity limits, metal detectors and a heavy police presence that some say is being deployed to discourage opposition to Mayor Tiffany Henyard.”⁴⁸

The Board argued, in Chief Lacey's letter, that heightened security concerns justified such extensive restrictions. This assertion is unpersuasive. Although prior Board meetings had been contentious due to the division within the Board and public displeasure with the allegations of misconduct against Village officials, the letter mailed from Rhode Island was the only evidence that the Board provided in support of the manner in which it conducted the meetings in question. The letter was critical and insulting, but it did not implicitly or explicitly threaten violence. More importantly, the letter did not arrive until after the two meetings occurred. While it was not unreasonable for the Board to have a metal detector at the entrance to the meeting room as a standard security measure and to have a visible police presence in light of the emotionally-charged atmosphere at previous meetings, even assuming there were *bona fide* threats to Ms. Henyard's safety, the Board did not illustrate that security concerns justified so heavily curtailing public attendance at the meeting. This office received no facts suggesting that it was reasonable or appropriate to block off the parking lot and surrounding street parking spaces for the building, especially spots designated for people with disabilities. Moreover, it is uncontested that many interested members of the public were excluded from each meeting due to the tight restrictions on attendance, and the Board did not claim that those individuals acted in a

⁴⁶Letter from Peggy Kelly Schultz [to Joshua M. Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General] (dated July 9, 2024, transmitted via e-mail July 10, 2024), at [4].

⁴⁷Letter from Peggy Kelly Schultz [to Joshua M. Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General] (dated July 9, 2024, transmitted via e-mail July 10, 2024), at [3].

⁴⁸Ben Bradley, *Dolton meetings devolve into chaos while residents decry village hall lockdown*, WGN Chicago (July 14, 2024), <https://news.yahoo.com/news/dolton-meetings-devolve-chaos-while-211406030.html>.

threatening or disruptive manner or that it had no options for accommodating them. Rather, the Fire Chief's letter to Mr. Freeman confirms that one possibility for accommodating additional members of the public was available space for assembly on the main floor of Village Hall.

The Board's failure to move the July 1, 2024, meeting to a larger meeting room, to offer standing room or overflow capacity (i.e. another room in the building for the attendees unable to fit into the main meeting room with a remote meeting set-up), or to otherwise attempt to make the meeting reasonably accessible to the public is exacerbated by the fact that the Board had clear notice from, among other things, (1) the three Requests for Review about the previous meeting, (2) public comments during that meeting, and (3) news media reporting that the meeting set-up was incommensurate with the ongoing public interest in attending and participating in Board meetings. Although the "reasonable accessibility" standard does not require the Board to ensure that every single person who wishes to attend a Board meeting is able to do so in full comfort, that standard did require the Board to implement measures to better accommodate the public. The Board's failure to do so violated section 2.01 of OMA.

FINDINGS AND CONCLUSIONS

After full examination and giving due consideration to the arguments presented, the Public Access Counselor's review, and the applicable law, the Attorney General finds that:

1) On June 5, 2024, Mr. Dannie Lee and Ms. Peggy Kelly Schultz each separately submitted a Request for Review to the Public Access Bureau alleging that the Board failed to make its June 3, 2024, meeting convenient and open to the public. On June 14, 2024, Ms. Rosie Leftwich submitted a Request for Review alleging the same violation. On July 3, 2024, Mr. Lee and Ms. Leftwich each separately submitted a new Request for Review alleging that the Board again violated OMA by failing to make its July 1, 2024, meeting convenient and open to the public. It is undisputed that the Requests for Review were timely filed and otherwise comply with the requirements of section 3.5(a) of OMA.

2) Within seven business days after receipt of each Request for Review, the Public Access Bureau forwarded a copy to the Board. The Public Access Bureau also sent the Board a letter in each matter concerning the June 3, 2024, meeting requesting a copy of the agenda, open session minutes (in draft form if necessary), any recording of the open session of the meeting that may have been made, and any safety or accessibility plan the Village/its police department created for the meeting. In those inquiry letters as well as the consolidated inquiry letter concerning the July 1, 2024, meeting, this office asked the Board to provide a detailed written answer to the allegation that it failed to make the meetings convenient and open to the public.

3) On July 8, 2024, the Board sent this office a written answer from the Acting Chief of Police of the Dolton Police Department, and a copy of the police report and alleged

Mr. Dannie Lee, Ms. Peggy Kelly Schultz, Ms. Rosie Leftwich
The Honorable Tiffany A. Henyard
September 3, 2024
Page 14

piece of hate mail referenced therein. The Board also sent this office a copy of a letter from the Fire Chief of the Dolton Fire Department to the Village Administrator about the occupancy of the meeting room.

4) The Public Access Bureau forwarded a copy of the Acting Police Chief's letter to Mr. Lee, Ms. Schultz, and Ms. Leftwich and notified them of their opportunity to reply. Between July 9, 2024, and July 13, 2024, they each submitted a reply. The Board then sent them its complete response on July 17, 2024, including a copy of the police report, a copy of the alleged piece of hate mail, and the Fire Chief's letter. The following day, the Board confirmed that these materials were intended to apply to the July 1, 2024, meeting as well. On July 19, 2024, the Public Access Bureau notified Mr. Lee and Ms. Leftwich of their right to reply about the July 1, 2024, meeting. On that same date, Mr. Lee submitted a reply, and the next day, Ms. Leftwich submitted a reply. On July 23, 2024, Ms. Schultz submitted a final reply.

5) On August 2, 2024, this office extended the time in which to issue a binding opinion by 21 business days, to September 3, 2024, pursuant to section 3.5(e) of OMA. Therefore, the Attorney General may properly issue a binding opinion with respect to this matter.

6) Section 2.01 of OMA (5 ILCS 120/2.01 (West 2022)) provides that "[a]ll meetings required by this Act to be public shall be held at specified times and places which are convenient and open to the public." Section 2.01 requires public bodies to take measures to ensure that they afford the public reasonable access to their meetings.

7) Despite having advance notice that the location and set-up of the Board's June 3, 2024, and July 1, 2024, meetings was insufficient to accommodate many interested members of the public, the Board made no adjustments to afford reasonable access to the meetings, and many members of the public were prohibited from entering the meeting space. The Board added restrictions such as parking barricades without justification, which further impeded public access to the meetings.

8) Accordingly, the Attorney General concludes that the Board violated section 2.01 of OMA by failing to make its June 3, 2024, and July 1, 2024, meetings convenient and open to the public.

In accordance with these findings of fact and conclusions of law, the Board is directed to take immediate and appropriate action to comply with this opinion by taking measures to make all future meetings convenient and open to the public, including holding meetings at a location with enough space to be reasonably accessible and configuring the meeting set-up to accommodate the public. Although the Board is permitted to take reasonable and appropriate measures to ensure the safety of members of the public and public officials, it is directed to refrain from unnecessary security measures such as street closures, parking barricades, and an excessive police presence that physically impedes members of the public from

Mr. Dannie Lee, Ms. Peggy Kelly Schultz, Ms. Rosie Leftwich
The Honorable Tiffany A. Henyard
September 3, 2024
Page 15

reaching Village Hall and/or creates a hostile atmosphere that may deter the public from attending meetings. As required by section 3.5(e) of OMA, the Board shall either take necessary action as soon as practical to comply with the directives of this opinion or shall initiate administrative review under section 7.5 of OMA. 5 ILCS 120/7.5 (West 2022).

This opinion shall be considered a final decision of an administrative agency for the purpose of administrative review under the Administrative Review Law. 735 ILCS 5/3-101 *et seq.* (West 2022). An aggrieved party may obtain judicial review of the decision by filing a complaint for administrative review in the Circuit Court of Cook County or Sangamon County within 35 days of the date of this decision, naming the Attorney General of Illinois and Mr. Dannie Lee, Ms. Peggy Kelly Schultz, and Ms. Rosie Leftwich as defendants. *See* 5 ILCS 120/7.5 (West 2022).

Very truly yours,

KWAME RAOUL
ATTORNEY GENERAL

By:


Brent Stratton
Chief Deputy Attorney General

CERTIFICATE OF SERVICE

Steve Silverman, Bureau Chief, Public Access Bureau, hereby certifies that he has served a copy of the foregoing Binding Opinion (Public Access Opinion 24-010) upon:

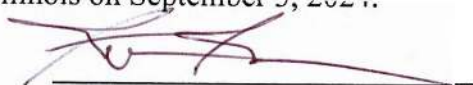
Ms. Peggy Kelly Schultz
1259 Heather Road
Homewood, Illinois 60430
peggy.schultz10@gmail.com

Mr. Dannie Lee
15249 Dante Avenue
Dolton, Illinois 60419
danlee4750@gmail.com

Ms. Rosie Leftwich
15230 Irving Avenue
Dolton, Illinois 60419
leftwichrosie72@gmail.com

The Honorable Tiffany A. Henyard
Mayor
Village of Dolton
14122 Martin Luther King Jr. Drive
Dolton, Illinois 60419
thenyard@vodolton.org

by causing a true copy thereof to be sent electronically to the addresses as listed above and by causing to be mailed a true copy thereof in correctly addressed, prepaid envelopes to be deposited in the United States mail at Chicago, Illinois on September 3, 2024.



Steve Silverman
Bureau Chief

Steve Silverman
Bureau Chief
Public Access Bureau
Office of the Attorney General
115 South LaSalle Street
Chicago, Illinois 60603
(312) 814-6756