



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

April 17, 2026

PUBLIC ACCESS OPINION 26-003
(Request for Review 2026 PAC 91898)

OPEN MEETINGS ACT:
Improper Closed Session Discussion of
Overdue Loans

The Honorable John Buckley, Trustee
Village of Caseyville Board
909 South Main Street
Caseyville, Illinois 62232

The Honorable Kent Luebbers, Mayor
Village of Caseyville
909 South Main Street
Caseyville, Illinois 62232

Dear Mr. Buckley and Mr. Luebbers:

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 2024)). For the reasons discussed below, this office concludes that the Village of Caseyville (Village) Board of Trustees (Board) violated OMA during its January 21, 2026, meeting by failing to follow the proper procedure for entering closed session and by holding a closed session discussion that was not authorized by any of the exceptions to the general requirement that public bodies conduct public business openly.

BACKGROUND

On January 22, 2026, Mr. John Buckley, a Village trustee, submitted a Request for Review to the Public Access Bureau alleging that the Village's mayor called for a closed session for "personnel issues[]" at the Board's January 21, 2026, meeting, but the Board did not

500 South 2nd Street
Springfield, Illinois 62701
(217) 782-1090 • Fax: (217) 782-7046

115 South LaSalle Street
Chicago, Illinois 60603
(312) 814-3000 • Fax: (312) 814-3806

1745 Innovation Drive, Suite C
Carbondale, Illinois 62903
(618) 529-6400 • Fax: (618) 529-6416

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actually discuss personnel issues during the closed session.¹ He asserted: "When the board went into Executive Session the discussion was related to businesses with outstanding T.I.F[.] loans. I strongly feel this is deceiving to board members and also to citizens at the meeting."²

On February 4, 2026, the Public Access Bureau sent a copy of the Request for Review to the Board and asked it to respond to Mr. Buckley's allegation and to identify the exception in section 2(c) of OMA³ that served as the basis for the Board entering closed session during the January 21, 2026, meeting.⁴ The Public Access Bureau also asked the Board to address how the closed session discussion fell within the scope of that exception and to provide copies of the meeting's agenda, open and closed session minutes, and verbatim recording of the closed session.⁵ Having received no response, the Public Access Bureau sent a second letter to the Board on February 20, 2026, again asking it to respond.⁶

On February 27, 2026, counsel for the Board submitted via e-mail a written answer, the full minutes, and verbatim recordings of the full meeting, including the closed session.⁷ In its written answer, dated February 26, 2026, the Board identified "the litigation exception" as the basis for entering closed session and asserted that the Mayor misspoke by instead citing "the personnel exception[.]"⁸ The Board's response stated that the discussion concerned "Tax Increment Financing loans that were in arrears and owed to the Village."⁹ On March 3, 2026, the Public Access Bureau forwarded a copy of the written answer to Mr.

¹E-mail from John Buckley, Caseyville Village Trustee, to Public Access [Bureau, Office of the Attorney General] (January 22, 2026).

²E-mail from John Buckley, Caseyville Village Trustee, to Public Access [Bureau, Office of the Attorney General] (January 22, 2026).

³5 ILCS 120/2(c) (West 2024), as amended by Public Act 104-438, effective January 1, 2026.

⁴Letter from Teresa Lim, Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General, to The Honorable Kent Luebbers, Mayor, Village of Caseyville (February 4, 2026), at 1.

⁵Letter from Teresa Lim, Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General, to The Honorable Kent Luebbers, Mayor, Village of Caseyville (February 4, 2026), at 1.

⁶Letter from Teresa Lim, Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General, to The Honorable Kent Luebbers, Mayor, Village of Caseyville (February 20, 2026).

⁷E-mail from Michael L. Wagner, Partner, Clayborne & Wagner, LLC, to Teresa Lim (February 27, 2026).

⁸Letter from Michael L. Wagner, Clayborne & Wagner LLP, to Teresa Lim, Deputy Bureau Chief, Public Access Bureau, Illinois[s] Attorney General (February 26, 2026), at [1].

⁹Letter from Michael L. Wagner, Clayborne & Wagner LLP, to Teresa Lim, Deputy Bureau Chief, Public Access Bureau, Illinois[s] Attorney General (February 26, 2026), at [1].

Buckley.¹⁰ On March 5, 2026, Mr. Buckley replied to this office, asserting that "T.I.F. loans were clearly the subject[]" of the closed session and that "[l]awsuits and litigations were not discussed."¹¹

On March 20, 2026, this office extended the time for issuing a binding opinion by 21 business days, to April 21, 2026, pursuant to section 3.5(e) of OMA.¹²

ANALYSIS

OMA is intended "to ensure that the actions of public bodies be taken openly and that their deliberations be conducted openly." 5 ILCS 120/1 (West 2024). Section 2(a) of OMA¹³ provides that "[a]ll meetings of public bodies shall be open to the public unless excepted in subsection (c) and closed in accordance with Section 2a."

Section 2a of OMA

Section 2a of OMA (5 ILCS 120/2a (West 2024)) provides that "[a] public body may hold a meeting closed to the public, or close a portion of a meeting to the public, upon a majority vote of a quorum present, taken at a meeting open to the public for which notice has been given as required by this Act." The provision further provides that "[t]he vote of each member on the question of holding a meeting closed to the public and a **citation to the specific exception** contained in Section 2 of this Act which authorizes the closing of the meeting to the public shall be **publicly disclosed** at the time of the vote and shall be **recorded and entered into the minutes** of the meeting." (Emphasis added.)

In its answer to this office, the Board stated that the Mayor "misspoke when he cited the Personnel exception as the reason for entering the closed session."¹⁴ The Board stated that the Mayor "should have stated that the discussion would be about litigation, which would have been allowable under 5 ILCS 120/2(c)(11)."¹⁵

¹⁰Letter from Teresa Lim, Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General, to The Honorable John Buckley, Trustee, Village of Caseyville (March 3, 2026).

¹¹E-mail from John Buckley, Caseyville Village Trustee, to [Teresa] Lim (March 5, 2026).

¹²Letter from Teresa Lim, Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General, to The Honorable John Buckley, Trustee, Village of Caseyville, and The Honorable Kent Luebbers, Mayor, Village of Caseyville (March 20, 2026).

¹³5 ILCS 120/2(a) (West 2024), as amended by Public Act 104-438, effective January 1, 2026.

¹⁴Letter from Michael L. Wagner, Clayborne & Wagner LLP, to Teresa Lim, Deputy Bureau Chief, Public Access Bureau, Illinois[s] Attorney General (February 26, 2026), at [1].

¹⁵Letter from Michael L. Wagner, Clayborne & Wagner LLP, to Teresa Lim, Deputy Bureau Chief, Public Access Bureau, Illinois[s] Attorney General (February 26, 2026), at [1].

It is undisputed that the Board's closed session discussion did not pertain to personnel issues. Moreover, this office's review of the Board's recording of the meeting's open session revealed that the Board did not publicly disclose "personnel" or any other issue as the basis for closing the meeting; the Board simply appeared to approve a motion for a closed session.¹⁶ In addition, the meeting minutes of the open session do not record the Board's public vote on the motion and only vaguely state, as the reason for entering closed session: "Need to discuss Personnel, will meet after Committee Meeting."¹⁷ Even if the Board had publicly cited personnel issues as the reason for the closed session, a generic reference to "personnel" does not adequately identify a specific exception in section 2(c) of OMA that authorizes a public body to close a meeting. *See* Ill. Att'y Gen. Pub. Acc. Op. No. 15-007, issued September 16, 2025, at 4-5; Ill. Att'y Gen. Pub. Acc. Op. No. 15-005, issued August 4, 2015, at 5. Accordingly, this office concludes that the Board violated section 2a of OMA by not publicly disclosing and recording into the minutes the specific exception authorizing the closing of a portion of the January 21, 2026, meeting.

Section 2(c)(11) of OMA

Section 2(c) of OMA provides that "[a] public body may hold closed meetings to consider the following[.]" and then enumerates 39 exceptions that permit public bodies to discuss certain specific subjects in closed session. Those exceptions "are in derogation of the requirement that public bodies meet in the open, and therefore, the exceptions are to be strictly construed, extending only to subjects clearly within their scope."¹⁸

Notwithstanding the reference to "Personnel" in the meeting minutes, the Board argued that its closed session discussion of the overdue Tax Increment Financing (TIF) loans was authorized by section 2(c)(11) of OMA,¹⁹ which permits a public body to close a meeting to discuss:

Litigation, when an action against, affecting or on behalf of the particular public body has been filed and is pending before a court or administrative tribunal, or when the public body finds that an action is probable or imminent, in which case the basis for the finding shall be recorded and entered into the minutes of the closed meeting.

In *Henry v. Anderson*, 356 Ill. App. 3d 952, 953 (2005), the Illinois Appellate Court analyzed this exception in considering whether a school board violated OMA by

¹⁶Village of Caseyville, Regular Board Meeting, January 21, 2026, Video File (on file with Public Access Bureau, Office of the Attorney General) (labeled "Board Room 2026-01-21 pt 1").

¹⁷Village of Caseyville Board, Regular Meeting, January 21, 2026, Minutes 4.

¹⁸5 ILCS 120/2(b) (West 2024), as amended by Public Act 104-438, effective January 1, 2026.

¹⁹5 ILCS 120/2(c)(11) (West 2024), as amended by Public Act 104-438, effective January 1, 2026.

announcing that it was closing a meeting to discuss "potential" litigation without making a finding that litigation was "probable" or "imminent." Observing that "the legislature intended to prevent public bodies from using the distant possibility of litigation as a pretext for closing their meetings to the public[.]" the court held that "the board violated the Act by failing to state, on the record, (1) a finding that litigation was probable or imminent and (2) a basis for such a finding." *Henry*, 356 Ill. App. 3d at 957.

In opinion No. 83-026, issued December 23, 1983, Attorney General Hartigan addressed the meaning of "probable or imminent" in the context of a city council's closed session discussion that related to the possibility of litigation in the event that the city council approved a proposed annexation.²⁰ Based on judicial definitions of the terms "probable" and "imminent," Attorney General Hartigan advised that "[f]or litigation to be probable or imminent, warranting the closing of a meeting, there must be reasonable grounds to believe that a lawsuit is more likely than not to be instituted or that such an occurrence is close at hand." Ill. Att'y Gen. Op. No. 83-026, at 10. Because an attorney for the annexation opponents declared that his clients were not contemplating a lawsuit and because litigation over the annexation could not be probable or imminent until the city council approved the annexation, Attorney General Hartigan concluded that the city council improperly closed the meeting to the public under the litigation exception. Ill. Att'y Gen. Op. No. 83-026, at 11-13.

In *City of Bloomington v. Raoul*, 2021 IL App (4th) 190539, ¶¶ 30-31, the Illinois Appellate Court upheld a binding opinion in which the Attorney General concluded that members of the Bloomington City Council had entered closed session without reasonable grounds to believe that litigation against the Town of Normal concerning an intergovernmental agreement between the two municipalities was probable or imminent. Illustrating the speculative nature of board's closed session discussion, the court explained:

For example, Bloomington's attorney advised the group that litigation "could be plausible." The attorney did not know if Normal had a valid claim, as Normal had shared nothing with him. One council member noted there was "no clear cut road" to litigation. Yet another member characterized any possible litigation as a "minor issue." More than one member surmised Normal's threat of a lawsuit could be a "negotiating tactic." The Mayor told the press after the meeting he doubted Normal would

²⁰At the time of the issuance of opinion No. 83-026, an earlier but substantively identical version of section 2(c)(11) of OMA excepted from the open meeting requirements:

meetings held to discuss litigation when an action against or on behalf of the particular public body has been filed and is pending in a court or administrative tribunal, or when the public body finds that such an action is probable or imminent, in which case the basis for such a finding shall be recorded and entered into the minutes of the closed meeting in accordance with Section 2.06. Ill Rev. Stat. 1981, ch. 102, par. 42(h).

file suit. Finally, the gist of the City Council's discussion described elsewhere herein was not of a group that thought litigation was probable or imminent. *City of Bloomington*, 2021 IL App (4th) 190539, ¶ 30.

The *City of Bloomington* court also concluded "that even if the City Council lawfully closed the meeting, the City Council violated the Act by failing to abide by the conditions that confined their discussion to probable or imminent litigation." *City of Bloomington*, 2021 IL App (4th) 190539, ¶ 35. In particular, the court observed, "[a]bsent from the closed session was any discussion of legal theories, defenses, claims, or possible approaches to litigation." *City of Bloomington*, 2021 IL App (4th) 190539, ¶ 36. Rather, "[t]he commentary that did concern litigation related to (1) concern about the uncertainty of any outcome, (2) how to best avoid a lawsuit, and (3) whether Bloomington or Normal had or could use the threat of litigation in the course of negotiation." *City of Bloomington*, 2021 IL App (4th) 190539, ¶ 36; see also Ill. Att'y Gen. Pub. Acc. Op. No. 22-010, issued July 12, 2022, at 10 (concluding that a school board's discussion of awarding bids exceeded scope of section 2(c)(11) because the school board lacked reasonable basis to believe litigation was more likely than not to occur and did not limit its discussion to the strategies, posture, theories, and consequences of the litigation).

Here, the Board argued that its closed session discussion was permissible under section 2(c)(11) because "litigation was an option being considered" to recover the remaining balances due on the delinquent TIF loans.²¹ In particular, the Board asserted that during the closed session, Board members were "attempting to determine what legal steps had been taken with some delinquent loans and what legal steps they may wish to take with the remainder of the loans."²² The Board further stated:

While no determination was made, it was discussed that additional information would be needed before a decision could be made. *International Association of Fire Fighters Local 4646 v Village of Oak Brook* 232 N.E.3d 1125 states clearly that when the litigation exception justified closed meetings under the OMA that relevant topics include theories, claims, defenses or approaches to litigation. In the closed session at issue, the Board was attempting to get its arms around the facts regarding the delinquent loans in order to determine what legal approaches made sense. It was ultimately decided that more information was needed.^[23]

²¹Letter from Michael L. Wagner, Clayborne & Wagner LLP, to Teresa Lim, Deputy Bureau Chief, Public Access Bureau, Illinois[s] Attorney General (February 26, 2026), at [1].

²²Letter from Michael L. Wagner, Clayborne & Wagner LLP, to Teresa Lim, Deputy Bureau Chief, Public Access Bureau, Illinois[s] Attorney General (February 26, 2026), at [1].

²³Letter from Michael L. Wagner, Clayborne & Wagner LLP, to Teresa Lim, Deputy Bureau Chief, Public Access Bureau, Illinois[s] Attorney General (February 26, 2026), at [1-2].

The section 2(c)(11) exception authorizes only discussions that concern existing litigation or litigation that a public body determines "is probable or imminent[.]" Although the Board was considering the possibility of legal action at the time of the meeting, a lawsuit had not been filed and the Board's answer and the meeting materials do not indicate that the Board had a reasonable basis to believe that litigation was more likely than not to occur. This office's review of the closed session minutes²⁴ confirmed that the Board did not undertake to determine or enter a finding that litigation concerning the overdue TIF loans was *probable* or *imminent* and record the basis for such a finding in the minutes. The plain language of section 2(c)(11) required the Board to do so under these circumstances.

Moreover, the explanation that the Board "was attempting to get its arms around the facts regarding the delinquent loans"²⁵ suggests that the Board was in the early stages of determining how to proceed and did not yet have enough information about details such as the terms of the loans to consider whether to pursue legal action. This office's review of the verbatim recording of the closed session found that the Board considered generally its legal rights under the TIF loans, but the discussion did not involve any probable plans to file a lawsuit or otherwise concern approaches to litigation.²⁶ Instead, the discussion indicated that litigation was merely a distant possibility at the time of the meeting.

Because the Board's closed session discussion did not concern pending, probable, or imminent litigation, this office concludes that section 2(c)(11) of OMA did not authorize the discussion. Accordingly, the Board violated section 2(a) of OMA at its January 21, 2026, meeting.

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 January 21, 2026, the Village of Caseyville (Village) Board of Trustees (Board) closed a portion of its meeting to the public.
- 2) On January 22, 2026, Mr. John Buckley, a Village trustee, submitted a Request for Review to the Public Access Bureau alleging that the Board improperly entered closed session at its January 21, 2026, meeting. He asserted that the Board entered closed session for "personnel issues," but instead discussed businesses with outstanding TIF loans. Mr. Buckley's Request for Review was timely filed and otherwise complies with the requirements of section 3.5(a) of OMA (5 ILCS 120/3.5(a) (West 2024)).

²⁴Village of Caseyville, Regular Board Meeting, January 21, 2026, Executive Session Minutes.

²⁵Letter from Michael L. Wagner, Clayborne & Wagner LLP, to Teresa Lim, Deputy Bureau Chief, Public Access Bureau, Illinois[s] Attorney General (February 26, 2026).

²⁶Village of Caseyville, Regular Board Meeting, January 21, 2026, Video File (on file with Public Access Bureau, Office of the Attorney General) (labeled "Executive Session 1.21.26").

3) On February 4, 2026, the Public Access Bureau sent a copy of the Request for Review to the Village's mayor along with a letter asking the Board to provide a written answer to Mr. Buckley's OMA allegation, and copies of the meeting agenda, open and closed session minutes, and closed session verbatim recording for this office's confidential review.

4) On February 20, 2026, the Public Access Bureau sent a second letter to the Board, again requesting a response. This office included copies of this office's February 4, 2026, correspondence and the Request for Review.

5) On February 27, 2026, counsel for the Board furnished a written answer and the open and closed session minutes and verbatim recordings of the open and closed session portions of the January 21, 2026, meeting.

6) On March 3, 2026, this office sent a copy of the Board's answer to Mr. Buckley. Mr. Buckley replied on March 5, 2026, maintaining that the Board's closed session discussion was improper.

7) On March 20, 2026, this office extended the time for issuing a binding opinion by 21 business days, to April 21, 2026, pursuant to section 3.5(e) of OMA. Accordingly, the Attorney General may properly issue a binding opinion with respect to this matter.

8) Section 2(a) of OMA provides that "[a]ll meetings of public bodies shall be open to the public unless excepted in subsection (c) and closed in accordance with Section 2a."

9) Section 2a of OMA provides that "[t]he vote of each member on the question of holding a meeting closed to the public and a citation to the specific exception contained in Section 2 of this Act which authorizes the closing of the meeting to the public shall be publicly disclosed at the time of the vote and shall be recorded and entered into the minutes of the meeting."

10) The minutes of the open session portion of the Board's January 21, 2026, meeting state, with respect to the Executive Session: "Need to discuss Personnel, will meet after Committee Meeting."

11) In its written answer, the Board did not dispute that it did not discuss personnel matters in the closed session. The Board stated that it discussed TIF loans that were in arrears and owed to the village.

12) The recording of the open session portion of the meeting reflects that the Board did not cite a specific exception enumerated in section 2(c) as a basis for closing its January 21, 2026, meeting. The Board also did not record and enter into the minutes the exception authorizing it to close a portion of the meeting. Accordingly, the Board violated section 2a of OMA.

13) The Board argued that section 2(c)(11) of OMA authorized its closed session discussion because it related to litigation.

14) Section 2(c)(11) of OMA permits a public body to close a portion of a meeting to discuss "[l]itigation, when an action against, affecting or on behalf of the particular public body has been filed and is pending before a court or administrative tribunal, or when the public body finds that an action is probable or imminent, in which case the basis for the finding shall be recorded and entered into the minutes of the closed meeting."

15) If litigation is not pending, section 2(c)(11) authorizes a closed session discussion only when the public body has reasonable grounds to believe that litigation is more likely than not to be instituted or that such an occurrence is close at hand.

16) The Board failed to determine or find that litigation was probable or imminent or record and enter into the closed session minutes the basis for such a finding, as required by section 2(c)(11).

17) The Board's January 21, 2026, closed session discussion concerning the overdue TIF loans did not pertain to pending, probable, or imminent litigation. Although the Board stated it was considering litigation as an option to recover the remaining balances of the TIF loans, there is no indication that such litigation was probable or imminent. Accordingly, the Board violated section 2(a) of OMA by discussing in closed session matters outside the scope of section 2(c)(11) of OMA.

In accordance with these findings of fact and conclusions of law, the Board is directed to remedy this violation by making publicly available the closed session verbatim recording of its January 21, 2026, meeting. 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 2024).

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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 2024). 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. Buckley as defendants. *See* 5 ILCS 120/7.5 (West 2024).

Very truly yours,

KWAME RAOUL
ATTORNEY GENERAL

By:



R. Douglas Rees
Chief Deputy Attorney General

cc: Mr. Michael L. Wagner
Clayborne & Wagner LLP
525 West Main Street, Suite 105
Belleville, Illinois 62220

CERTIFICATE OF SERVICE

Steve Silverman, Deputy Division Chief, Public Access & Opinions Division,
hereby certifies that he has served a copy of the foregoing Binding Opinion (Public Access
Opinion 26-003) upon:

The Honorable John Buckley, Trustee
Village of Caseyville Board
909 South Main Street
Caseyville, Illinois 62232
jbuckley@caseyville.org

The Honorable Kent Luebbers, Mayor
Village of Caseyville
909 South Main Street
Caseyville, Illinois 62232
kluebbers@caseyville.org

Mr. Michael L. Wagner
Clayborne & Wagner LLP
525 West Main Street, Suite 105
Belleville, Illinois 62220
mwagner@claybornewagner.com

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 April 17, 2026.



Steve Silverman
Deputy Division Chief

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