



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

March 27, 2020

Via electronic mail
Mr. James Loerzel
1225 Center Lane
Arlington Heights, Illinois 60004
jloerzel@sbcglobal.net

RE: OMA Request for Review – 2020 PAC 62246

Dear Mr. Loerzel:

This determination is issued pursuant to section 3.5(b) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(b) (West 2018)). For the reasons set forth below, the Public Access Bureau concludes that no further action is warranted as to this matter.

In your Request for Review, received March 19, 2020, you asserted that on March 18, 2020, the Chicago Executive Airport Board of Directors (Board) held a scheduled meeting at which there was not a quorum of members physically present. You asserted that only the chairman was present at the meeting location and that the six directors participated via teleconference. This office construes your Request for Review as alleging violations of sections 2.01 of OMA (5 ILCS 120/2.01 (West 2018)) and 7(a) of OMA (5 ILCS 120/7(a) (West 2018)).

The first sentence of the second paragraph of section 2.01 of OMA provides that "[a] quorum of members of a public body must be physically present at the location of an open meeting." This office has previously concluded that the requirement that a quorum be physically present is tied to circumstances in which one or more members participate in the meeting despite not being physically present at the meeting location. *See Ill. Att'y Gen. PAC Req. Rev. Ltr. 49326*, issued December 18, 2017, at 4 (concluding that public body did not violate OMA, although it may not have complied with other policies, rules, bylaws, ordinances or laws concerning quorums, when a majority of a quorum of public body members were present at the meeting location but no members attended remotely). Section 7(a) of OMA provides that "[i]f a quorum of the members of the public body is physically present as required by Section 2.01, a majority of the public body may allow a member of that body to attend the meeting by other means if the member is prevented from physically attending because of" certain enumerated

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reasons. Thus, under normal circumstances all six directors would not have been permitted to attend remotely. The March 18, 2020, Board meeting, however, took place under special circumstances and orders necessitated by the COVID-19 pandemic.

Disaster Proclamation and Executive Order

On March 9, 2020, pursuant to his authority under section 7 of the Illinois Emergency Management Agency Act (20 ILCS 3305/7 (West 2018)), the Governor of Illinois "declare[d] all counties in the State of Illinois as a disaster area" in response to the outbreak of COVID-19.¹ The Disaster proclamation became effective immediately on March 9, 2020, to "remain in effect for 30 days."² The Governor then issued a series of executive orders for coping with the disaster. On March 16, 2020, to protect the public's health, the Governor of Illinois issued Executive Order 2020-07, which provides, in relevant part:

During the duration of the Gubernatorial Disaster Proclamation, the provisions of the Open Meetings Act, 5 ILCS 120, requiring or relating to in-person attendance by members of a public body are suspended. Specifically, (1) the requirement in 5 ILCS 120/2.01 that "members of a public body must be physically present" is suspended; and (2) the conditions in 5 ILCS 120/7 limiting when remote participation is permitted are suspended.³

Executive Order 2020-07, which was in effect at the time of the March 18, 2020, Board meeting, permitted the Board to have less than a quorum of members physically present at its March 18, 2020, meeting and allowed its members to participate remotely without the limitations described in section 7 of OMA. Accordingly, this office concludes that no further inquiry is warranted as to this matter.

¹Gubernatorial Disaster Proclamation, issued March 9, 2020, at 2.

²Gubernatorial Disaster Proclamation, issued March 9, 2020, at 3.

³Executive Order 2020-07, §6, issued March 16, 2020, at 3.

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This file is closed. If you have any questions, you may contact me at the Springfield address on the first page of this letter, LHarter@atg.state.il.us, or at (217) 524-7958.

Very truly yours,



LAURA S. HARTER
Deputy Bureau Chief
Public Access Bureau

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cc: Mr. D. Court Harris
Chairman
Board of Directors
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