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SPRINGFIELD

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FILE NO. S-1305

**MEETINGS:**  
City Council - Requirement  
of Open Meetings For "Quasi-  
Adjudicative" Session

Honorable Thomas J. Difanis  
State's Attorney  
Champaign County  
Urbana, Illinois 61801

Dear Mr. Difanis:

I have your letter asking about the application of "AN ACT in relation to meetings" (Ill. Rev. Stat. 1975 and 1976 Supp., ch. 102, par. 41 et seq.) [Open Meetings Act] to a recent closed meeting of the Champaign city council. You report that the council met in closed session "pursuant to city ordinance as an appeal board concerning a decision of the mayor which closed a local massage parlor for violations of city ordinances". Your question is whether such meetings are allowed to be closed because of their "quasi-adjudicative"

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nature. I conclude that they are not.

It should be noted in the first place that section 3-11-9 of the Illinois Municipal Code (Ill. Rev. Stat. 1975, ch. 24, par. 3-11-9), applicable to municipalities with commission or managerial form of government, states that:

"The city council shall consist of the mayor and aldermen. It shall sit with open doors. It shall keep a journal of its own proceedings."

Although there are no cases interpreting the "open doors" requirement, it seems clear and unequivocal except as impliedly modified by exceptions in the Open Meetings Act.

Also relevant is section 5-3-6 of the Illinois Municipal Code (Ill. Rev. Stat. 1975, ch. 24, par. 5-3-6), which applies to cities with the managerial form of government such as Champaign. This section states:

"The powers of the council or board shall be purely legislative except as may be otherwise provided by any other act or by any article of this Code other than Articles 3 or 4. \* \* \* "

No other statute appears to provide for the sitting of a city council as a "quasi-judicial" body. See generally, article II of the Municipal Code (Ill. Rev. Stat. 1975, ch. 24, par. 11-1-1 et seq.), entitled "Corporate Powers and Functions". Thus, the meetings of the council come within the plain terms

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of section 2 of "AN ACT in relation to meetings" (Ill. Rev. Stat. 1976 Supp., ch. 102, par. 42) which provides:

"All meetings of any legislative, executive, administrative or advisory bodies of the State, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees or commissions of this State, and any subsidiary bodies of any of the foregoing including but not limited to committees and subcommittees which are supported in whole or in part by tax revenue, or which expend tax revenue, shall be public meetings. \* \* \* "

The same section provides a number of exceptions:

" \* \* \* (a) collective negotiating matters between public employers and their employees or representatives, (b) deliberations for decisions of the Illinois Commerce Commission and the Illinois Parole and Pardon Board, (c) meetings where the acquisition of real property is being considered, or where a pending court proceeding against or on behalf of the particular governmental unit is being considered, but no other portion of such meetings may be closed to the public, (d) grand and petit jury sessions, (e) where the constitution provides that a governmental unit can hold secret meetings, (f) meetings at public institutions of higher education relating to campus security or to the safety of staff and students, and (g) that portion of State Investment Board meetings where the sale and/or purchase of securities and/or investment contracts is to be considered. \* \* \* "

It is evident that none of these exceptions applies to the meeting of the city council that you have described.

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The second paragraph of the section provides a few further limitations on the scope of the open meetings requirement, but obviously none of them applies either. Under the maxim "expressio unius est exclusio alterius", the General Assembly's listing of these exceptions implies that no others should be allowed. As the court pointed out in Illinois News Broadcasters Ass'n v. City of Springfield (1975), 22 Ill. App. 2d 226, 228:

" \* \* \* The plain language of the open meetings law says public bodies \* \* \* must meet publicly unless they are authorized by statute to hold closed sessions in certain instances; the exceptions allowing closed meetings are few and must be narrowly construed because they derogate the general policy of open meetings.

\* \* \*

Since meetings such as the one you describe do not come within any statutory exception, they should be open to the public.

Very truly yours,

A T T O R N E Y   G E N E R A L