



**WILLIAM J. SCOTT**  
ATTORNEY GENERAL  
STATE OF ILLINOIS  
SPRINGFIELD

July 1, 1976

FILE NO. S-1116

**MEETINGS:**  
**Public Meetings Act -**  
**Committee of Public**  
**Building Commission**

Honorable Michael M. Mihm  
State's Attorney  
County of Peoria  
Peoria County Court House  
Peoria, Illinois 61602

Dear Mr. Mihm:

This is in response to your letter concerning the applicability of "AN ACT in relation to meetings" (Ill. Rev. Stat. 1975, ch. 102, pars. 41 et seq.) to the Building Committee of the Public Building Commission of Peoria. You state that this public building commission is responsible for the school construction program and that the commission's building committee has the function of determining the financial responsibility of bidders for projects under this program. You ask

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whether meetings wherein the building committee interviews prospective bidders as to their personal financial condition, available personnel, available equipment, and other pending jobs are required to be open by the Act.

It is my opinion that such meetings as described by you are within the scope of the Act and therefore must be open to the public.

Section 2 of the Act (Ill. Rev. Stat. 1975, ch. 102, par. 42) defines those public agencies which are within the Act's scope. It provides in pertinent part as follows:

"§ 2. 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 \* \* \* "

Although the building committee's meetings which you describe are investigatory in nature, they nevertheless fall within the scope of the Act. In the case of Sacramento Newspaper Guild v. Sacramento Co. Bd. of Super., 69 Cal. Rptr. 480, in considering the applicability of the Brown Act which is California's counterpart to "AN ACT in relation to meetings",

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the court stated at page 486:

\* \* \* \* Without troubling the lexicographers, one recognizes a committee as a subordinate body charged with investigating, considering and reporting to the parent body upon a particular subject. Normally, committees investigate, consider and report, leaving the parent body to act. By the specific inclusion of committees and their meetings, the Brown Act demonstrates its general application to collective investigatory and consideration activity stopping short of official action.

\* \* \*

The court also stated at page 485:

\* \* \* \* Recognition of deliberation and action as dual components of the collective decision-making process brings awareness that the meeting concept cannot be split off and confined to one component only, but rather comprehends both and either. To 'deliberate' is to examine, weigh and reflect upon the reasons for or against the choice. (See Webster's New International Dictionary, 3d ed.) Public choices are shaped by reasons of fact, reasons of policy or both. Any of the agency's functions may include or depend upon the ascertainment of facts. (Walker v. County of Los Angeles (1961) 55 Cal.2d 626, 635, 12 Cal.Rptr. 671, 361 P.2d 247.) Deliberation thus connotes not only collective discussion, but the collective acquisition and exchange of facts preliminary to the ultimate decision.

\* \* \*

In the case of People ex rel. Hopf v. Barger, 30 Ill. App. 3d 525 at page 538, the Illinois Appellate Court stated:

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" \* \* \*

The Act places the duty to hold open meetings on any 'legislative, executive, administrative or advisory bodies of the \* \* \* cities \* \* \* and any subsidiary bodies \* \* \* not limited to committees and subcommittees \* \* \* ' (Ill. Rev. Stat. 1971, ch. 102, par. 42.) This duty is not dependent upon the presence of a quorum at these meetings or limited to the transaction of official business. The Act merely states that, when any of these bodies meet, their meeting shall be open to the public unless the matters they are discussing are exempted.

\* \* \*

It follows, in light of the General Assembly's inclusion of committees and subsidiary bodies within the purview of "AN ACT in relation to meetings", and in light of the broad interpretation of the Act's scope as pronounced by the Illinois Appellate Court, that a meeting for investigatory purposes is subject to the requirements of the Act as is a meeting at which ultimate decisions are reached.

I am unable to conclude that any of the exemptions listed in the Act apply to the meetings described in your letter. The second paragraph of section 2 permits "closed sessions to consider information regarding appointment, employment or dismissal of an employee or officer \* \* \* ". The building committee's inquiries into the financial responsibility of prospective bidders are concerned with independent

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contractors and therefore do not fall within the scope of this particular exemption. The Act also has an exception which allows meetings to be closed when so required by a Federal regulation. Due to a lack of factual information with regard to your specific situation, I am unable to determine whether any Federal regulations require such closed meetings. You are in a position to make this determination.

Very truly yours,

A T T O R N E Y   G E N E R A L