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FILE NO. S-997

OFFICERS:

Authority of Lieutenant
Governor as Chairman of
Technical Advisory Committee
on Aging

Honorable Neil P. Hartigan
Lieutenant Governor
State of Illinois
Springfield, Illinois 62706

Dear Lt. Governor Hartigan:

This responds to your request for an opinion regarding the Technical Advisory Committee on Aging of which you are chairman. You ask specifically:

1. Are actions taken at a gathering of members of the Technical Advisory Committee, not officially convened by the chairman, valid?
2. Is a gathering of various members of the Technical Advisory Committee to deliberate public matters, a public meeting within the meaning of "AN ACT in relation to meetings"? (Ill. Rev. Stat. 1973, ch. 102, pars. 41 et seq.)

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3. If it were such a public meeting, does the convening of the meeting without the required 24 hour notice stipulated in the Act, constitute a violation of the Act?

As background material, you state that on October 8, 1975, acting as chairman of the Technical Advisory Committee, you advised all statutory members of the committee that a meeting of the committee was scheduled for Wednesday, October 22, 1975, at 10:00 a.m. in the DuPage County Administrative Building in Wheaton, Illinois. On October 21, 1975, 24 hours prior to the scheduled meeting, you determined that the meeting should be cancelled for lack of response from a majority of the committee members and rescheduled at another time. Notice of such cancellation was dispatched the same morning by messenger to the committee members at their State offices. Various members of the committee, however, decided to conduct a meeting at 160 North LaSalle Street, Chicago, Illinois. After your office was apprised of this intent by the Director of the Department on Aging, you advised him again that the meeting had been cancelled. At 10:00 a.m. on the following morning, certain code department directors and other individuals, who are

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statutory members of the committee, met and took various actions and deliberated on matters directly affecting the statutory purposes of the Technical Advisory Committee and that body's public responsibilities.

The Technical Advisory Committee on Aging serves as a liaison between several State agencies and departments to facilitate the planning and the delivery of programs and services for the aging. (Ill. Rev. Stat. 1973, ch. 23, par. 6108.03.) Section 8.01 of the Illinois Act on the Aging (Ill. Rev. Stat. 1973, ch. 23, par. 6108.01) provides that the Lt. Governor shall be chairman of the committee and section 8.02 (Ill. Rev. Stat. 1973, ch. 23, par. 6108.02) gives the Lt. Governor as chairman of the committee, the authority to convene committee meetings. Section 8.02 provides as follows:

"§ 8.02. The Technical Advisory Committee shall meet as often as the Chairman of the Committee deems necessary."

Public officers deriving their powers from statutory enactments can exercise only those powers expressly or implicitly conferred upon them by statute. (Diederich v. Rose, 228 Ill. 610; McKenzie v. Arthur T. McIntosh & Co., 50 Ill. App. 2d 370.) The chairman is the only member of the Technical

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Advisory Committee who is given the power to call committee meetings. Therefore, it must be concluded that the General Assembly intended to give the Lt. Governor, as chairman, the exclusive authority to call committee meetings.

The legislative intent to limit the authority to call committee meetings to the chairman of the committee is made evident by contrasting the manner of calling meetings of the Technical Advisory Committee with the way meetings of the Council on Aging may be called. Section 7.08 of the Illinois Act on the Aging (Ill. Rev. Stat. 1973, ch. 23, par. 6107.08) does not limit the authority to call council meetings to the chairman of the council. Instead, voting members of the council may also call council meetings. Section 7.08 provides as follows:

"§ 7.08. The Council shall meet at least once each quarter, or as often as the Chairman of the Council deems necessary, or upon the written request of ten of the voting members of the Council."

The contrast between the authority of the chairman of the Technical Advisory Committee and the authority of the chairman

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of the Council on Aging confirms the conclusion that the exclusive authority to call meetings of the Technical Advisory Committee is vested in the chairman of the committee.

The power to call a meeting necessarily implies the power to revoke a call to meet. (In re Opinion of the Justices, 136 Me. 531, 12 A. 2d 418.) As chairman of the Technical Advisory Committee you had the authority to cancel the meeting originally called for October 21 in Wheaton.

When a collection of individuals is designated by law as a body to whose care public affairs are committed, the body so created is powerless to act except together and as a body at a legally convened session. (People ex rel. Browne v. Chicago & Eastern Illinois Ry. Co., 306 Ill. 402.) The Technical Advisory Committee thus can act only as a body at a meeting called by the chairman. Based on the fact as set forth in your letter that you did not call the meeting in Chicago on October 22, such meeting in Chicago was not legally convened.

The actions taken at an improperly called meeting are void. (People ex rel. Ballance v. Chicago & Eastern

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Ill. Ry. Co., 314 Ill. 352; 1937 Ill. Att'y. Gen. Op. 93.)

In People ex rel. Hawkins v. Chicago & Eastern Ill. Ry. Co.,

314 Ill. 596, a meeting of the board of town auditors in the town of Lowe was called by the town clerk at the request of the highway commissioner. The court held that the actions taken at this meeting were void because under the Township Organization Act special meetings of the board could only be called by the clerk at the request of the township supervisor or two members of the township board. The court explained its decision as follows at page 601-2:

"It is apparent that the meeting was not called in the manner provided by the statute. While paragraph 119 [of the Township Organization Act] just quoted provides that the board of town auditors may, in its discretion, meet at such other times as it may determine, either upon the request of a supervisor or of any two members of the board, there is no provision of the statute authorizing the clerk to call a special meeting except in the manner indicated by the act, and no such authority is given to the highway commissioner. According to the testimony of the town clerk there was no record of the meeting made, and for all that is shown here, the consent signed by the board of town auditors was the act of each individual rather than the collective action of the board in accordance with the terms of the statute. The consent to the additional levy in Lowe township was therefore void and the county court should have sustained objections thereto."

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Since the meeting in Chicago on October 22 was not called in the manner prescribed in section 8.02, I am of the opinion, in answer to your first question, that the actions taken at the meeting on October 22 are invalid.

In answer to your second and third questions, I am of the opinion that the gathering was a meeting subject to "AN ACT in relation to meetings" (Ill. Rev. Stat. 1973, ch. 102, pars. 41 et seq.) and the holding of the meeting without 24 hour notice is a violation of the Act.

It is quite clear that the meetings of the Technical Advisory Committee are in general subject to "AN ACT in relation to meetings" since it applies to any legislative, executive, administrative or advisory body of this State, with certain exceptions which are not applicable here. The fact that the gathering was called by someone without authority to do so does not remove the gathering from the purview of the Act. In opinion No. S-726 I advised that meetings within the purview of the Act were not limited only to gatherings which were official meetings or where there were only official deliberations, but

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included informal sessions or conferences designed for the discussion of public business. You state that the meeting under consideration was prearranged for the specific purpose of discussing the public business of the committee. Based on these facts and the consideration set forth in opinion No. S-726, I am of the opinion that this gathering clearly was a meeting within the purview of "AN ACT in relation to meetings".

Section 2.02 of the Act (Ill. Rev. Stat. 1973, ch. 102, par. 42.02) provides "public notice of any special meeting, or of any rescheduled regular meeting, or of any reconvened meeting, shall be given at least 24 hours before such meeting". Public notice is given by posting a copy of the notice at the principal office of the body holding the meeting or at the building at which the meeting is to be held. In addition, public notice must be given to members of the news media who have requested it. Notice as required by this section had not been given. Therefore, I am of the opinion that the Act was violated.

Very truly yours,

A T T O R N E Y G E N E R A L