



Municipal Client Advisory
May 2011

ENFORCEMENT LETTERS FROM ATTORNEY GENERAL'S OFFICE
HIGHLIGHT NEED FOR SPECIFICITY UNDER OPEN MEETING LAW

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Recent enforcement letters from the Attorney General's office highlight the need for including specific details under the Open Meeting Law (M.G.L. c. 30A, §§ 18-25 and 940 CMR 29.00):

- OML 2011-15 (May 4, 2011) – The posted notice listed executive session “[t]o conduct strategy sessions in preparation for negotiations and, if appropriate, to conduct contract negotiations with nonunion central office administrative personnel”. However, the Attorney General's office held that this notice was insufficient because it should have identified, by name, the specific individual involved. The Attorney General's office determined that including the name of this individual would not have been detrimental to the local public body's negotiating position because the individual was aware of the executive session and was invited to attend the contract negotiation portion. In addition, the Attorney General's office also observed that such details would have notified the public that a specific member of the “nonunion central office administrative personnel” was negotiating with the local public body. The Attorney General's office recommended postponement of action on the individual's contract until a duly noticed meeting in the future.
- OML 2011-11 (February 15, 2011) – The Attorney General's office determined that “Renewal of Fall Soil Permits” on the posted notice was insufficient. Instead, the local public body was required, to the extent known, to list the details of the permits involved, including the name of the applicant and property location.
- OML 2011-9 (February 9, 2011) – The Attorney General's office stated that entering into executive session for the purpose of collective bargaining required the local public body to identify the union or group of employees with whom the local public body was negotiating or preparing to negotiate.

These enforcement letters underscore the need for public bodies to specifically identify the topics to be discussed in a posted notice, because this notice must include all topics that the chair of a public body reasonably anticipates to be discussed at least forty-



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eight (48) hours prior to the meeting. In addition, these enforcement letters also emphasize the need for specific details in connection with invoking executive session without merely repeating the permitted purpose(s) for executive session under the Open Meeting Law, unless disclosure of the purpose(s) will be compromised.

Keep in mind that the penalties for violating the Open Meeting Law can be severe. These penalties include, but are not limited to, an order to comply with the Open Meeting Law, mandatory training, rescinding the action taken, a maximum civil penalty of \$1,000 for each intentional violation, various actions involving employment matters, public disclosure of materials, or other appropriate action.

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Murphy, Hesse, Toomey & Lehane, LLP, is a full-service law firm with offices in Quincy, Boston, and Springfield, Massachusetts. The firm represents a wide range of public entities throughout the Northeast. For questions about this alert and other legal issues, interested parties should contact Brandon H. Moss at 617-479-5000, or contact the attorney assigned to your account.

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