



OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General
One Ashburton Place
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

Your Contact Information:

First Name: Brian Last Name: Iler

Address: 482 School Street

City: Belmont State: MA Zip Code: 02478

Phone Number: 617 413-3476 Ext. _____

Email: brianiler@icloud.com

Organization or Media Affiliation (if any): _____

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

Individual Organization Media

Public Body that is the subject of this complaint:

City/Town County Regional/District State

Name of Public Body (including city/town, county or region, if applicable): Belmont Middle and High School Building Committee

Specific person(s), if any, you allege committed the violation: Bill Lovallo

Date of alleged violation: April 28, 2023

Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

On April 28, 2023 the Belmont Middle and High School Building Committee ("The Committee") improperly met in executive session.

The Committee failed to follow three of the seven items in the Attorney General's "Public Body Checklist for Entering Into Executive Session," (3/12/2013).

1. The Chair had not, "... publicly announced the purpose for executive session, citing one or more of the 10 purposes found at G.L. c. 30A, § 21(a)." This was instead partially announced by committee member Robert McLaughlin, "... that we proceed to the Executive Session. And according with the statute exclusively the purpose is to discuss the strategy with respect to possible litigation, which if discussed in open meeting would have a detrimental effect upon our possible litigation position, and that litigation is demonstrably likely. I make that motion," immediately preceding the roll call vote leading to the end of the open meeting.
2. The Chair had not, "... stated all subjects that may be revealed without compromising the purpose for which the executive session was called. For example, the Chair identified the party a public body may be negotiating with or the litigation matter the public body will be discussing." There was no "identifying" the litigation matter, even when challenged to do so (see below).
3. The Chair had not, "... publicly stated that having the discussion in open session would have a detrimental effect on the public body's negotiating position, bargaining position, litigating position, or ability to obtain qualified applicants."

In addition, the Committee ignored the guidance on page 12 of the Attorney General's "Open Meeting Law Guide and Educational Materials, January 2018":

"While we generally defer to public bodies' assessment of whether the inclusion of such details would compromise the purpose for an executive session, a public body must be able to demonstrate a reasonable basis for that claim if challenged."

The Committee neglected this guidance by refusing to provide an answer when in the meeting Belmont resident Brian Iler challenged the claim by asking the Chair, "Is the town clearly and imminently threatened with a lawsuit? Or are we clearly or imminently threatening a lawsuit?" The Chair answered this challenge by saying, "Yeah, I won't answer that now because we're not going into Executive Session, but thank you." The Chair provided no other information regarding the executive session prior to meeting in executive session.

The Committee has never mentioned, in this meeting or in any prior meeting, any litigation, actual, threatened, or likely. Nor has any party been named as a possible litigant. As the Attorney General has stated in DETERMINATION_-_4-29-2021_-_OML_2021-56_-_EDGARTOWN_CONSERVATION_COMMISSION, "... the mere possibility of litigation is not sufficient to invoke Purpose 3." The Committee has provided nothing more than the "mere possibility" of litigation, if that.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

As the Committee wrongfully denied the public access to all of its deliberations on April 28, at its next meeting the Committee must approve the minutes of its April 28 executive session, and make those available to the public immediately. Any recording of this executive session must be made available to the public immediately (and not modified or destroyed).

The Committee must agree to strictly adhere to all Open Meeting Laws, regulations, AG guidance, checklists, and determinations.

Review, sign, and submit your complaint

I. Disclosure of Your Complaint.

Public Record. Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

Publication to Website. As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

II. Consulting With a Private Attorney.

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

III. Submit Your Complaint to the Public Body.

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: Brian Iler

Date: May 8, 2023

For Use By Public Body
Date Received by Public Body:

For Use By AGO
Date Received by AGO: