

To: Mayor Smith, Ken Turner, Human Relations Committee  
From: David Wesner  
Re: Applicability of Open Meetings Act to Complaint Process  
Date: September 30, 2020

## **Background**

During its meeting of September 23, the Human Relations Committee discussed the applicability of the Open Meetings Act to the Committee. During discussions concerning the process the Committee may use to address complaints of discrimination, the Committee inquired as to how the Open Meetings Act may apply to deliberations of the Committee.

## **Opinion:**

The Open Meetings Act (“Act”), 5 ILCS 120, applies to “public bodies”. Section 1.02 of the Act provides the definition of “public body”. The definition of “public body” includes committees and sub-committees of Villages. Therefore, the Open Meetings Act is applicable to the Human Relations Committee. I understand that the Committee is aware of the applicability and the members have participated in the training regarding the Act.

During discussions of the process for handling complaints, the Committee inquired as to circumstances under which the Committee may go into closed session. Section 2(c) of the Act provides exceptions to the general requirement that meetings, actions and deliberations of public bodies be conducted openly. The law holds that the exceptions provided in Section 2(c) are construed strictly and narrowly against closing meetings. The purpose of this is to ensure that public bodies do not just give lip service to the Act and its exceptions but have a legitimate basis to close a meeting. The process being discussed by the Committee for handling certain complaints of discrimination includes investigating the complaints and receiving evidence and testimony in relation to the complaint.

Section 2(c)(4) of the Act provides an exception which allows for closed meetings to consider evidence or testimony presented in an open hearing to a quasi-adjudicative body. The definition of quasi-adjudicative body in the Act is: an administrative body charged by law with the responsibility to conduct hearings, receive evidence or testimony and make determinations thereon. The purpose for this exception is to allow a closed meeting to evaluate the evidence and testimony presented to them. I believe the Human Relations Committee would fall in this category based upon the process being discussed for complaints of discrimination. With regard to the process being discussed, I believe that the Committee would be able to deliberate on the evidence and testimony presented to it in closed session. In conjunction with providing the exception, the statute further provides that the body must prepare, and make available for public inspection, a written decision setting forth its determinative reasoning. Therefore, while the Committee may deliberate in closed session concerning the evidence and testimony, the Committee must prepare a written decision setting forth its reasoning and vote on that decision in an open session. Additionally, the written decision must be made available to the public.