

**Office of Rick Amato  
DeKalb County State's Attorney**

DeKalb County Courthouse  
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August 12, 2021

Jerry Wahlstrom, Chair  
Housing Authority of the County of DeKalb  
310 N. 6th Street  
DeKalb IL 60115

Chairman Wahlstrom,

This office recently received complaints as to Housing Authority of the County of DeKalb (the "Authority") not properly following the Open Meetings Act (5 ILCS 120/1, *et seq.*) ("OMA"). I am concerned with the allegations made and am writing you to seek a change in your policies without necessitating further action by the State.

In reviewing the concerns raised to us, we looked to your website to see what information you are providing the public, and immediately noticed that some material was not being released, or when it was, it was difficult to find. I am sure you are aware that all public bodies in the State are required to adhere to OMA, and a municipal corporation is specifically referenced within 5 ILCS 120/1.02's definition of "Public body".

As such, OMA applies to the Authority. We looked to your website to examine your posting of scheduled meetings. Your website states:

"The Housing Authority of the County of DeKalb (HACD) is governed by a 5 member Board of Commissioners. The Board is responsible for overseeing policies, operations, and expenditures. Commissioners chart the direction of the HACD by assessing community needs and setting organizational goals. Commissioners are appointed by the DeKalb County Board. The board is made up of members of the DeKalb County Area, all dedicated to HACD mission. The Commissioners meet the third Tuesday of each month at 310 N. 6th Street, DeKalb at 2:30 pm." <https://dekcohousing.com/about-hacd/board-members/>"

www.dekalbcounty.org

So, you provide a general time and place for meetings, but at first blush offer nothing further as to the events that will occur. It was only after digging around your website that we discovered you had to go to the "About HACD" link, then click on "Minutes" to then be taken to a page that contained minutes as well as agendas for those meetings. While that is most likely done with good intention, it leads to confusion and difficulty. I would urge you to make the agendas easier to find, so that the public is easily able to learn what discussions are being had. Additionally, your bylaws appear to not be in agreement with OMA, as they contain this language:

"ARTICLE III – MEETINGS

Section 1 - Annual Meeting

The Annual Meeting of the Authority shall be held at a time as designated prior to the regular meeting of the Authority.

Section 2 - Regular Meetings

Regular meetings shall be held without notice at the regular meeting place of the Authority at 2:30 p.m. on the third Tuesday of each month, unless the same shall be a legal holiday, in which event said meeting shall be held on the next succeeding secular day.

Section 3 - Special Meetings

The Chairperson of the Authority may, when s/he deems it expedient, and shall, upon written request of two members of the Authority, call a special meeting of the Authority for the purpose of transacting any business designated in the call. The call for a special meeting may be delivered to each member of the Authority or may be mailed to the business or home address of each member of the Authority at least two days prior to the date of such special meeting. At such special meeting no business shall be considered other than as designated in the call, but if four members of the Authority are present at a special meeting, any and all business may be transacted at such special meeting."

*Housing Authority of the County of DeKalb Bylaws Article III.*

According to these rules, the meeting notice requirements of OMA are not to be followed by the Authority, and this must be remedied. You cannot have rules that directly institute noncompliant procedures.

OMA also mandates that the Authority establish a yearly meeting schedule and post it on your website as is articulated in 5 ILCS 120/2.02(a). Then, you must also provide a meeting agenda for each meeting as required by 5 ILCS 120/2.02<sup>1</sup>. As I noted, you generally appear to be following his rule, however it is not easily noticeable and as such, may result in citizens not being aware of what is to occur at those 2:30 meetings you revealed. More importantly,

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<sup>1</sup> You must also be following these rules in regard to Special Meetings that are held. Please review OMA considering this topic as well.

the agendas that are posted must provide for what the Authority plans to vote, or take action on. OMA states on this topic,

“Any agenda required under this Section shall set forth the general subject matter of any resolution or ordinance that will be the subject of final action at the meeting. The public body conducting a public meeting shall ensure that at least one copy of any requested notice and agenda for the meeting is continuously available for public review during the entire 48-hour period preceding the meeting.” 5 ILCS 120/2.02(c).

I understand that a strict reading of this is that an “ordinance or resolution” is all that must be included, but that ignores the intent of our legislature to have the public informed of the business being conducted. It must be considered; while a public body may discuss matters not on the agenda, they may not take final action on any matter not on the agenda. *In re Foxfield Subdivision*, 396 Ill.App.3d 989 (2d Dist. 2009). Examples of such may involve the purchase of a vehicle, the changing of salaries, or the approval of a contract. Whatever final action you are taking must be described on the agenda. You can see this in practice on the County Board’s agendas.

Additionally, when you are taking that final action, even when posted on an agenda, 5 ILCS 120/2(e) provides that the “final action shall be preceded by a public recital of the nature of the matter being considered and other information that will inform the public of the business being conducted.” 5 ILCS 120/2(e). While I have not received a complaint on this issue in particular, it appears apropos to remind you of its importance along with the other requirements for final actions.

Of course, this is not an all-inclusive list of all sections of OMA (or your bylaws) and everything you may need to address. I urge you to review OMA in detail (<https://www.ilga.gov/LEGISLATION/ILCS/ilcs3.asp?ActID=84>) and make sure that you are acting in compliance with every aspect. Further, I urge you to stay in compliance with mandated training, to minimize the chance of future problems arising. You can learn more about it at this link: <https://illinoisattorneygeneral.gov/> (The website’s training tools are currently offline due to some computer problems, but once they are restored, I would ask that you complete the training.) I would also urge you to institute a policy wherein members of the Authority, and their OMA/FOIA staff, retake the online training yearly. I think you will find this as beneficial for you all.

With all that being said, I believe that the Authority is attempting to comply with OMA in many aspects, and simply needs to make some further modifications to ensure that they are not in noncompliance. The measures I am requesting are not difficult to take, and I trust they will be instituted. To that end, I have determined that it would not be in the public’s best interest to further escalate this matter. Instead, I ask that you make the appropriate changes and always consider that ‘the people have a right to be informed as to the conduct of their business’. See 5 ILCS 120/1. In that spirit, it is always best to err on the side of providing more, as opposed to less information in your agendas. Yet, should this matter not be rectified

in the future, and meetings continue to occur without the necessary information, I will have to consider court action. I hope such is not necessary.

Please do not hesitate to contact me should you have any questions or wish to discuss the matter further.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Rick Amato', with a long, sweeping horizontal line extending to the right.

Rick Amato  
DeKalb County State's Attorney