

BURKE, WARREN, MacKAY & SERRITELLA, P.C.

MEMORANDUM

TO: Robert Kosin

FROM: Susan Horner

RE: OMA/FOIA training requirements

DATE: January 13, 2012

Effective January 1, 2012, there are new training requirements pursuant to the Illinois Open Meetings Act ("OMA"). There are also certain training requirements under the Illinois Freedom of Information Act ("FOIA"). All of these training programs are developed and administered by Public Access Counselor of the Illinois Attorney General's Office.

Elected and Appointed Members of the Village's Public Bodies:

All elected and appointed officials of the Village's public bodies are subject to OMA and must successfully complete the required electronic training curriculum. OMA covers subgroups of public bodies, such as committees, subcommittees, or advisory bodies, even if that subgroup does not in itself spend or use tax revenue.

Persons who were elected or appointed a member of a Village public body as of January 1, 2012, must complete the electronic training between January 1, 2012 and January 1, 2013. Persons elected or appointed after January 1, 2012 must complete the training no later than 90 days after taking the oath of office or otherwise assuming responsibilities.

Each member successfully completing the electronic training must file with the Village a certificate of completion.

An elected or appointed member of the Village who successfully completes the electronic training, and files a certificate of completion with the public body, is not required to subsequently complete the training.

The electronic training curriculum for elected or appointed members of public bodies can be found at http://foia.ilattorneygeneral.net/electronic_foia_training.aspx. Each trainee is required to register and create an account (see <https://foia.ilattorneygeneral.net/CreateAccount.aspx>). Once a trainee has registered, he or she will be able to access the FOIA/OMA portal at <https://foia.ilattorneygeneral.net/login.aspx?ReturnUrl=%2fPortal%2fFOIAOMAPortal.aspx>.

Although a failure of one or more members to complete the required training does not affect the validity of an action taken by the public body, if an elected or appointed member of the Village deliberately fails to successfully complete the required OMA training it may increase

exposure to civil liabilities if the Village or member is accused of a violation of the Act. In addition, public officials who violate OMA are subject to criminal penalties. A criminal action can only be initiated by a State's Attorney. In such an action, it is possible that a deliberate failure to comply with the training requirements could result in an increased risk of criminal prosecution should the member ever be accused of violating the OMA.

FOIA Officers and OMA Designees:

All FOIA Officers must successfully complete the electronic training within 30 days after assuming the position, and successfully complete the electronic training every year thereafter. Likewise, all OMA Designees must successfully complete the electronic training within 30 days after assuming the position, and on an annual basis.