

# **Bond Case Briefs**

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## **OPEN MEETINGS - MARYLAND**

### **Frazier v. McCarron**

**Court of Appeals of Maryland - November 20, 2019 - A.3d - 2019 WL 6167484**

Petitioner filed suit against city council, alleging violations of Open Meetings Act (OMA), seeking, inter alia, imposition civil penalties in amount of \$8,250, voiding all actions taken at closed meeting, reimbursement of legal expenses and court fees, and order directing city council to unseal minutes of meeting.

Following trial, the Circuit Court found that city council had violated OMA, but concluded that violations were “technical,” and entered judgment for city council. Petitioner appealed. The Court of Special Appeals affirmed. Petition for certiorari review was granted.

The Court of Appeals held that:

- Trial court’s finding that city council conducted open meeting at which vote was taken to go into closed session was clearly erroneous;
- Trial court did not abuse its broad discretion in declining to impose civil penalties on city council; and
- City council was not subject to sanctions for alleged violations of OMA.

Trial court’s finding that city council conducted open meeting at which vote was taken to go into closed session, in compliance with Open Meetings Act (OMA), based on its belief that all witnesses testified to that fact, was clearly erroneous, in action on petitioner’s complaint that city council conducted closed meeting in violation of OMA; although mayor testified that there was open meeting at which vote was taken to go into closed session, four city council members and city manager testified that there was no open meeting.

Trial court did not abuse its broad discretion in declining to impose civil penalties on city council for alleged violation of mandatory provision of Open Meetings Act (OMA) that city council conduct open meeting at which vote would be taken to move into closed session.

City council was not subject to sanctions, nor was petitioner entitled to award of attorney fees and costs, based on city council’s purported violations of mandatory provisions of Open Meetings Act (OMA) requiring that city council conduct open meeting, to which public could attend, to take vote to move into closed session, that city council provide notice of open meeting, and to produce statement by presiding officer of reasons for moving to closed session; closed session was for purpose of obtaining legal advice with respect to potential lawsuit against city council, so there was nothing for trial court to void, there was no evidence of attorneys’ fees or litigation costs, and minutes of closed session were made public within one and one-half months of closed session.