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OPEN MEETINGS - MINNESOTA

City of Bloomington v. Raoul

Appellate Court of Illinois, Fourth District - April 26, 2021 - N.E.3d - 2021 IL App (4th) 190539 - 2021 WL 1608790

City, city council, and mayor of city sought administrative review of Attorney General's binding opinion that city council violated Open Meetings Act when it held a closed session to discuss termination of agreement with town.

The Circuit Court reversed the Attorney General's binding opinion. Attorney General appealed.

The Appellate Court held that:

- Attorney General's opinion would be reviewed de novo;
- City council improperly invoked litigation exception to the Act to justify council's closed session; and
- Even if city council had lawfully invoked litigation exception, the council violated the Act by failing to limit its discussion to probable or imminent litigation.

Appellate Court would review de novo the determination by the Attorney General that city council violated the Open Meetings Act when it held closed session, purportedly pursuant to Act's litigation exception, regarding termination of agreement with town; terms "probable" and "imminent" in litigation exception were not ambiguous and, therefore, did not warrant deference to Attorney General's opinion, and historical facts were established.

City council improperly invoked litigation exception to Open Meetings Act to justify council's closed session regarding termination of agreement with town, where there was no litigation pending for city to invoke exception at time of session, and council members did not reasonably believe that litigation was probable or imminent.

Even if city council had lawfully invoked litigation exception to Open Meetings Act in order to justify holding a closed session regarding termination of agreement with town, the council violated the Act by failing to limit its discussion to probable or imminent litigation, where the council discussed topics related to potential financial and public-relations implications of council's various options for terminating agreement, and absent from the closed session was any discussion of legal theories, defenses, claims, or possible approaches to litigation.