



VOICE OF DETROIT <http://voiceofdetroit.net>

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December 3, 2012

**Detroit Mayor Dave Bing and
City Council President Charles Pugh, and members of the City Council
1340 Woodward Avenue
Detroit, Michigan 48226**

Dear Mayor Bing, President Pugh, and City Council members:

This letter is to notify you that I believe you may commit a second egregious violation of **Michigan's Open Meetings Act, MCL 15.263, Sec. 3 (1) (2) (3) (4) (5) and (6)** during the Council's newly scheduled Committee of the Whole session Tuesday, Dec 4, 2012. Members of the community and myself are putting together a legal complaint related to the first violation, which we believe occurred Nov. 20, 2012 (letter attached.)

We believe you must provide sufficient space for **ALL** members of the public to be **PRESENT** during tomorrow's meeting, not just sitting in the auditorium watching it on closed-circuit TV and waiting to be called in for public comment.

In its relevant sections, Michigan's OMA states as follows:

15.263 Meetings, decisions, and deliberations of public body; requirements; attending or addressing meeting of public body; tape-recording, videotaping, broadcasting, and telecasting proceedings; rules and regulations; exclusion from meeting; exemptions.

Sec. 3. (1) All meetings of a public body shall be open to the public and shall be held in a place available to the general public. All persons shall be permitted to attend any meeting except as otherwise provided in this act. The right of a person to attend a meeting of a public body includes the right to tape-record, to videotape, to broadcast live on radio, and to telecast live on television the proceedings of a public body at a public meeting. The exercise of this right shall not be dependent upon the prior approval of the public body. However, a public body may establish reasonable rules and regulations in order to minimize the possibility of disrupting the meeting.

(2) All decisions of a public body shall be made at a meeting open to the public.

(3) All deliberations of a public body constituting a quorum of its members shall take place at a meeting open to the public except as provided in this section and sections 7 and 8.

(4) A person shall not be required as a condition of attendance at a meeting of a public body to register or otherwise provide his or her name or other information or otherwise to fulfill a condition precedent to attendance.

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(5) A person shall be permitted to address a meeting of a public body under rules established and recorded by the public body. The legislature or a house of the legislature may provide by rule that the right to address may be limited to prescribed times at hearings and committee meetings only.

(6) A person shall not be excluded from a meeting otherwise open to the public except for a breach of the peace actually committed at the meeting.

As a journalist and a public citizen, I came to the Special Committee of the Whole meeting scheduled for Nov. 26, 2012, which was canceled due to a violation of the OMA, namely the lack of 18 hour-notice. I observed Council staff handing out public comment cards to individuals and directing them to the auditorium, where they were to watch it on closed-circuit TV. I therefore believe you plan to conduct tomorrow's meeting in the same fashion.

Having attended and covered City Council meetings for the past 40 years, I note that **NEVER BEFORE** has a City Council conducted its Committee of the Whole meetings in this fashion. If a large audience was expected, the meeting was held in the auditorium so all could attend in compliance with the Open Meetings Act, **AND OUT OF RESPECT FOR THE PEOPLE OF THIS CITY.**

You are hereby put on notice once again that the rights of citizens when violations of the Open Meetings Act occur are spelled out in the Act as follows:

15.271 Civil action to compel compliance or enjoin noncompliance; commencement; venue; security not required; commencement of action for mandamus; court costs and attorney fees.

Sec. 11. (1) If a public body is not complying with this act, the attorney general, prosecuting attorney of the county in which the public body serves, or a person may commence a civil action to compel compliance or to enjoin further noncompliance with this act.

(2) An action for injunctive relief against a local public body shall be commenced in the circuit court, and venue is proper in any county in which the public body serves. An action for an injunction against a state public body shall be commenced in the circuit court and venue is proper in any county in which the public body has its principal office, or in Ingham county. If a person commences an action for injunctive relief, that person shall not be required to post security as a condition for obtaining a preliminary injunction or a temporary restraining order.

(3) An action for mandamus against a public body under this act shall be commenced in the court of appeals.

(4) If a public body is not complying with this act, and a person commences a civil action against the public body for injunctive relief to compel compliance or to enjoin further noncompliance with the act and succeeds in obtaining relief in the action, the person shall recover court costs and actual attorney fees for the action.

You are also hereby put on notice that the following penalties may apply to public officials who violate the OMA as follows:

15.272 Violation as misdemeanor; penalty.

Sec. 12. (1) A public official who intentionally violates this act is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00.

(2) A public official who is convicted of intentionally violating a provision of this act for a second time within the same term shall be guilty of a misdemeanor and shall be fined not more than \$2,000.00, or imprisoned for not more than 1 year, or both.

15.273 Violation; liability.

Sec. 13. (1) A public official who intentionally violates this act shall be personally liable in a civil action for actual and exemplary damages of not more than \$500.00 total, plus court costs and actual attorney fees to a person or group of persons bringing the action.

(2) Not more than 1 action under this section shall be brought against a public official for a single meeting. An action under this section shall be commenced within 180 days after the date of the violation which gives rise to the cause of action.

(3) An action for damages under this section may be joined with an action for injunctive or exemplary relief under section 11.

I hereby notify you, Mayor Dave Bing, Council President Pugh, and others as may be applicable, that I, along with other citizens, will be filing complaint(s) in the appropriate court(s) regarding a second violation of the OMA if it happens again tomorrow, and requesting the maximum penalties possible.

This letter is being sent to the applicable parties by email, fax, and will be hand-delivered tomorrow morning.

Sincerely,



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cc: All members of the City Council
Corporation Counsel Krystal Crittendon
Members of the public and their representatives