



The Commonwealth of
Massachusetts Office of the Attorney
General One Ashburton Place Boston,
Massachusetts 02108

RECEIVED
SEP - 9 2010
TOWN CLERK, ACTON

OPEN MEETING LAW COMPLAINT FORM

Instructions for completing the Open Meeting Law Complaint Form

The Office of the Attorney General's Division of Open Government is responsible for interpreting and enforcing the Open Meeting Law. Pursuant to G.L. c. 30A, §23, the Open Meeting Law requires that, prior to filing a complaint with the Attorney General, complaints must first be filed with the public body that is alleged to have committed the violation. The complaint must be filed with the public body within 30 days of the alleged violation, or if the alleged Open Meeting Law violation could not reasonably have been known at the time it occurred, then within 30 days of the date it should reasonably have been discovered. The complaint must set forth the circumstances which constitute the alleged violation, giving the public body an opportunity to remedy the alleged violation.

Please complete the entire form, providing as much information as possible, to assist the public body in responding to your complaint. You may attach additional materials to your complaint if necessary. The public body may request additional information if necessary. The Division of Open Government will not, and public bodies are not required to, investigate anonymous complaints.

Complaints alleging a violation of the Open Meeting Law by a local public body must be filed with the clerk of the city or town where the alleged violation occurred. Complaints alleging a violation by a county, regional or state public body must be filed with the chair of the public body.

If you are not satisfied with the action taken by the public body in response to your complaint, you may file a copy of your complaint with the Attorney General 30 days after filing your complaint with the public body. The complaint must include this form and any documents relevant to the alleged violation. A complaint may be filed either by mail or by hand with the:

Office of the Attorney General Division of Open Government
One Ashburton Place Boston, MA 02108

The Attorney General may decline to investigate a complaint that is filed with the Attorney General more than 90 days after the alleged OML violation, unless an extension was granted to the public body or the complainant demonstrates good cause for the delay.



**OPEN MEETING LAW COMPLAINT
FORM** Office of the Attorney General One
Ashburton Place Boston, MA 02108

Please note that all fields are required unless otherwise noted.

Your Contact Information:

First Name: **John**

Last Name: **Horne**

Address: **101 Central St**

City: **Acton**

State: **MA**

Zip Code: **01720**

Phone Number: **+1 (978) 263-8991** Ext.

Email: **jc.horne@verizon.net**

Organization or Media Affiliation (if any):

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

Individual

Organization

Media

Public Body that is the subject of this complaint:

City/Town

County

Regional/District

State

Name of Public Body (including city/town, county or region, if applicable):

Zoning Board of Appeals, Acton Massachusetts

Specific person(s), if any, you allege committed the violation:

**ZBA Members Kenneth Kozik, Jon Wagner, Richard Fallon
Roland Bartl Town Planning Director
Nina Pickering Cook Town Attorney,**

Date of alleged violation: **8/12/2010**

Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

On 8/12/2010 the Acton ZBA held an open meeting to hear arguments regarding the previous denial on 4/16/2010 of a Comprehensive Permit for a 40B development in Acton. The public including seven abutters and four representative of the developer were given opportunity to make statements and ask questions. The ZBA then closed the meeting to any further input from the public. The ZBA began public deliberation with all parties still present. As the ZBA members articulated their thought process an attorney in the room representing the developer repeatedly interrupted, made comments and statements objecting to specific statements by the ZBA board during their public deliberations. One ZBA member used the comments of the attorney as reason for his intention to vote in favor of the developer. The ZBA members did not solicit these comments or statements from the attorney. Several member of the public represented as the abutters raised our hands in an attempt to protest the actions of the developers attorney. One abutter asked why the developers attorney was being allowed to speak. The ZBA board chairman waved the abutters off with the statement that no further input was allowed. This did not stop the attorney for the developer from continuing to make statements during the ZBA deliberations. The Town Attorney and the Planning Board Director were present during these violations of the open meeting rules. The decision of the ZBA in a two to one vote in favor of the developer was unduly influenced by the violation of the Open Meeting law requiring no further input from the public once the meeting was closed.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

The decision of the ZBA on 8/12/2010 in this matter should be overturned and the original decision issued by the ZBA on 4/16/2010 to deny the comprehensive permit should be reinstated.

Review, sign, and submit your complaint

Read this important notice and sign your complaint.

Under most circumstances your complaint will be considered a public record and be available to any member of the public upon request.

I understand that when I submit this complaint the Attorney General's Office cannot give me legal advice and cannot act as my personal lawyer.

I certify that the information contained on this form is true to the best of my knowledge.

Signed: John O'Hara Date: September 7, 2010

For Use By Public Body
Date Received by Public
Body:

For Use By AGO
Date Received by
AGO: