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**STATE OF MARYLAND**  
**OPEN MEETINGS COMPLIANCE BOARD**

***12 Official Opinions of the Compliance Board 39 (2018)***

**City of Frederick Board of Aldermen**

**May 11, 2018**

The complaint alleges that City of Frederick Board of Aldermen violated the Open Meetings Act between July 31, 2013 and February 19, 2014, because the City Board did not hold open meetings on whether to issue a request for proposals (“RFP”) for a hotel to be built in the City. Specifically, the complaint alleges that, according to a former alderman, the City Board had “several closed meetings” with a hotel advisory committee and the head of the City’s economic development department. Additionally, the complaint states that the procedure followed by the City did not comply with the City’s procurement policy. The latter allegation does not state a violation of the Open Meetings Act and lies beyond our purview.

In response, the City Attorney makes two arguments relevant to the Open Meetings Act allegations: first, that the City cannot respond in a meaningful fashion because the complaint is not sufficiently specific about the alleged meeting dates and participants, and, second, that, in any event, “the City denies holding any secret meetings with respect to [the RFP].” The City Board bases the second proposition on the affidavit of the department head. He states: “I have neither convened nor participated in any meeting of the Board of Aldermen regarding the issuance of [the RFP] or any other matter related to plans for a hotel . . . that was not conducted in full compliance with the Maryland Open Meetings Act.” In rebuttal, as additional support for his inference that a quorum of the City Board met, the complainant quotes from The Frederick News-Post’s report of a City Board meeting on July 31, 2013: “The city’s hotel committee plans to present to elected officials in a few week(s) preferred sites for the hotel, although the public may not be included in that discussion.”

Ordinarily, a public body’s denial that it met secretly would suffice for our limited advisory purposes. Here, however, the City Board’s denial is qualified. On one hand, the City Board states that the complaint is too vague for it to address, and, on the other, the City Board offers the department head’s affidavit that *he* did not meet secretly with the City Board – at least, not in a

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meeting that did not “comply fully” with the Act. In any event, from the submissions, various inferences could be drawn. One such inference is that the task force or staff discussed matters in the presence of fewer than a quorum of the City Board, such that no “meeting” occurred for purposes of the Act.

We do not know what happened during the period in question. What we do know is that, despite the newspaper’s report that the “public may not be included” in the particular discussion, no one sought our guidance in 2013, either prospectively or otherwise. In any event, even if our guidance would be useful now, we do not have enough facts to resolve the complaint.

**Open Meetings Compliance Board**

*Jonathan A. Hodgson, Esq.*

*April C. Ishak, Esq.*

*Rachel Ann Grasmick, Esq.*