

1 **OFFICE OF THE ATTORNEY GENERAL**
2 **STATE OF NEVADA**

3
4 In the matter of:

5 **INCLINE VILLAGE GENERAL**
6 **IMPROVEMENT DISTRICT BOARD**
7 **OF TRUSTEES AUDIT COMMITTEE**

AG FILE NO.: 13897-316

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

8 **BACKGROUND**

9 Aaron Katz filed a Complaint (Complaint) with the Office of the Attorney General
10 (OAG) alleging violations of the Nevada Open Meeting Law (OML) by the Incline Village
11 General Improvement District (IVGID) Board of Trustees Audit Committee (Committee).
12 The Complaint alleges that the Committee violated the OML by failing to include an OAG
13 opinion on its agenda and in its supporting materials as required by NRS 241.0395(1).

14 The OAG has statutory enforcement powers under the OML and the authority to
15 investigate and prosecute violations of the OML. NRS 241.037; NRS 241.039; NRS
16 241.040. The OAG's investigation of the Complaint included a review of the Complaint and
17 attachments, the Response from the Committee's legal counsel and attachments, the
18 agenda for the IVGID Board of Trustee's March 13, 2018, meeting, and the agenda and
19 supporting material for the Committee's December 12, 2018, meeting.

20 After investigating this matter, the OAG determines that the Committee violated
21 the OML by failing to include as an item on its December 12, 2018, agenda the Findings of
22 Fact and Conclusions of Law for Attorney General File No. 13897-260 as required by NRS
23 241.0395(1).

24 **FINDINGS OF FACT**

25 1. The Committee is comprised of three of the five members of the IVGID Board
26 of Trustees (Board) and advises the Board concerning IVGID financial matters.

27 2. The Board and Committee are a "public bodies" as defined in NRS 241.015(4)
28 and are subject to the OML.

1 3. On February 21, 2018, the OAG issued its Findings of Fact and Conclusions
2 of Law in Attorney General File No. 13897-260 (FFCL), finding that the Board and the
3 Committee had each violated the OML with respect to untimely approval of meeting
4 minutes.

5 4. The FFCL stated the following:

6 “[T]he Board and Committee must place on their next meeting agendas these
7 Findings of Fact and Conclusions of Law and include them in the supporting
8 material for the meetings. The agenda items must acknowledge these
9 Findings of Fact and Conclusions of Law to be the result of the OAG
investigation in the matter of Attorney General File No. 13897-260, and that
it has been placed there as a requirement of NRS 241.0395.”

10 5. The Board placed an acknowledgement of the FFCL on its March 13, 2018,
11 agenda and included the FFCL in its supporting materials.

12 6. The first meeting of the Committee following the FFCL was held on December
13 12, 2018.

14 7. The agenda for the Committee’s December 12, 2018, meeting did not list the
15 FFCL and the FFCL were not included in the supporting materials.

16 LEGAL STANDARDS AND CONCLUSIONS OF LAW

17 The legislative intent of the OML is that actions of public bodies “be taken openly,
18 and that their deliberations be conducted openly.” NRS 241.010(1); *see also McKay v. Board*
19 *of Supervisors*, 102 Nev. 644, 651, 730 P.2d 438, 443 (1986) (“the spirit and policy behind
20 NRS chapter 241 favors open meetings”). Public bodies working on behalf of Nevada
21 citizens must conform to statutory requirements in open meetings under an agenda that
22 provides full notice and disclosure of discussion topics and any possible action. *Sandoval*
23 *v. Board of Regents*, 119 Nev. 148, 67 P.3d 902 (2003).

24 NRS 241.0395(1) requires public notice of an OAG opinion if the OAG makes findings
25 of fact and conclusions of law that a public body has violated any provision of NRS Chapter
26 241. The public body must include an item on its next agenda which acknowledges the
27 OAG’s findings of fact and conclusions of law. The opinion of the OAG must be treated as
28 supporting material for the item on the agenda. The inclusion of an item on an agenda

1 pursuant to NRS 241.0395(1) is not an admission of wrongdoing for the purposes of a civil
2 action, criminal prosecution or injunctive relief. NRS 241.0395(2).

3 The Committee contends that because the Board acknowledged the FFCL at its
4 March 13, 2018, meeting and the Committee members are also members of the Board, it
5 was not necessary for the Committee to acknowledge them separately. However, because
6 the Committee is a separate public body and was found to have violated the OML itself,
7 the Committee was required to acknowledge the FFCL at its next meeting. Thus, the OAG
8 finds that the Committee violated the OML by failing to acknowledge the FFCL at its
9 December 12, 2018, meeting and include the FFCL in the supporting material for that
10 meeting.

11 SUMMARY

12 Because the OAG finds that the Committee has violated the OML, the Committee
13 must place both these Findings of Fact and Conclusions of Law and the Findings of Fact
14 and Conclusions of Law for OAG File No. 13897-260 on its next meeting agenda and include
15 them in the supporting material. The agenda item must acknowledge the instant Findings
16 of Fact and Conclusions of Law to be the result of the OAG investigation in the matter of
17 the Attorney General File No. 13897-316, and that they have been placed on the agenda as
18 a requirement of NRS 241.0395.

19 Dated: October 2, 2019.

20 AARON D. FORD
21 Attorney General

22 By: 
23 ROSALIE BORDELOVE
24 Chief Deputy Attorney General
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CERTIFICATE OF SERVICE


I hereby certify that on the 10th day of October, 2019, I served the FINDINGS OF FACT AND CONCLUSIONS OF LAW by depositing a copy of the same in the United States mail, properly addressed, postage prepaid, Certified Mail, addressed as follows:

Aaron L. Katz

Certified Mail No. 7014 2570 0001 8497 5634

Jason D. Guinasso, Esq.

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An Employee of the
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