



STATE OF NEVADA  
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March 11, 2014

**Via First Class Mail**

Cynthia K. Lynch  
324 Tuscany Circle  
Mesquite, Nevada 89027

Re: Open Meeting Law Complaint / AG File No. 13-038  
Mesquite Veterans Center

Dear Ms. Lynch:

This letter is in response to your Open Meeting Law (OML) complaint where Ms. Elaine Hurd was turned away from the Mesquite Veterans Center's (MVC) Board of Director's meeting on October 31, 2013. It alleges this is a violation of the Open Meeting Law. NRS 241.020(1).

Mesquite Veterans Center's response to the complaint stated it was not a public body and contradicts that females are denied entry if they are not a veteran. If MVC is not a public body the Attorney General has no jurisdiction to require entry by members of the public. The question presented is whether MVC is a "public body."

NRS 241.015(3) defines a "public body" as:

[A]ny administrative, advisory, executive or legislative body of the state or a local government which expends or disburses or is supported in whole or in part by tax revenue or which advises or makes recommendations to any entity which expends or disburses or is supported in whole or in

part by tax revenue, including but not limited to any board, commission, committee, subcommittee or other subsidiary thereof. . . .

Central to your allegation is that MVC would not let females into the building. You also claimed MVC is a IRS Code 501(c)(3), but it will not open books or show articles of incorporation even after making a written request.

A "public body" must: (1) owe its existence to and have some relationship with a state or local government; (2) be organized to act in an administrative, advisory, executive or legislative capacity; and (3) it must perform a government function. NRS 241.015(3) also requires that a "public body" must expend or disburse or be supported in whole or in part by tax revenue, or advise or make recommendations to any entity which expends, disburses or is supported in whole or in part by tax revenue. See Nevada Open Meeting Law Manual § 3.01 (10th Ed., December 2005).

In past opinions, when the Attorney General has examined whether a nonprofit corporation, or any other entity, is a public body we have interpreted NRS 241.015(3) to require that the entity be a collegial body that: (1) owes its existence to and has some relationship with a state or local government; (2) be organized to act in an administrative, advisory, executive or legislative capacity; and (3) performs a governmental function. A public body must also expend or disburse, or be supported in whole or in part by, tax revenue, or advise or make recommendations to any entity which expends or disburses, or is supported in whole or in part by, tax revenue. OMLO 99-05 (January 12, 1999).

This office has opined that the phrase "some relationship" set out above in (1) needed clarification. We adopted the following factors to assist in determining how extensive the relationship must be. The factors are: (1) whether the entity performs a governmental function; (2) the level of government funding of the entity; (3) the extent of government involvement or regulation of the entity; and (4) whether the entity was created by government. *Woodstock Academy*, 436 A.2d at 270-271. Each factor is analyzed and balanced with the others by giving appropriate weight to each one based on the context, a procedure followed by most states using a factors test.

Mesquite Veterans Center is a nonprofit corporation holding IRS Code 170(b) (1)(A) – Public charity status. Four directors serve on the board without compensation. Mr. Allan Litman, Chairman of the Veteran's Community Council, stated that MVC exists on donations from the community and legal fundraising. There does not appear to be any legal relationship with the City of Mesquite or other local government. MVC is not an administrative, executive, legislative or advisory body of state or local government; it

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is a public charity. It was not created by any state or local authority and it is clear that MVC Board of Directors is not controlled by, or has any ongoing legal connection with state or local government.

Furthermore, the response states that women serve on a daily basis in the Mesquite Veterans Center. Mr. Litman states that Ms. Lynch is a frequent attendee at events in the Center. A request for records was made by Ms. Elaine Hurd and she was told to make an appointment to see the records. We are told she did not respond. Nevertheless, Mr. Litman said the records are available for review during normal business hours.

Mesquite Veterans Center is not a "public body." If Ms. Hurd was not allowed into the Board meeting, and even if she was rudely ejected, the OML can not correct this action by the Board, since the OML does not apply to a private board meeting. MVC is not subject to the Open Meeting Law, Chapter 241 of the Nevada Revised Statutes.

Sincerely,

CATHERINE CORTEZ MASTO  
Attorney General

By:



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GHT:smg

Cc: Al Litman,  
Jim Brown, president VVA Chapter 993  
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