In the Matter of:

BOARD OF COMMISSIONERS,
SOUTHERN NEVADA REGIONAL
HOUSING AUTHORITY

And Its

EXECUTIVE COMMITTEE;
OPERATIONS COMMITTEE;
ADMINISTRATION AND FINANCE
COMMITTEE; SUPPORTIVE SERVICES
AND RESIDENTIAL AFFAIRS
COMMITTEE; and BYLAWS AD HOC
COMMITTEE.

A.G. FILE NO.: 13897-413

FINDINGS OF FACT
AND CONCLUSIONS OF LAW

On or about May 20, 2021, John Johnson filed a Complaint (Complaint) with the Office of the Attorney General (OAG) pursuant to Nevada Revised Statutes (NRS) 241.039 alleging violations of the Nevada Open Meeting Law (OML) by the Board of Commissioners, Southern Nevada Regional Housing Authority (Board). Mr. Johnson filed a second complaint (Second Complaint) on or about February 25, 2022, alleging violations of the OML by the Board and its Executive Committee, Operations Committee, Administration and Finance Committee, Supportive Services and Residential Affairs Committee, and Bylaws Ad Hoc Committee (collectively “Committees”). The Complaint and Second Complaint allege the Board and Committees violated the OML as follows:

ALLEGATION ONE: The Board failed to provide supporting material for its meetings to Mr. Johnson as required by the OML.

ALLEGATION TWO: The Committees formed by the Board at its June 17, 2021, meeting are subject to the OML and are not complying with the OML.

The OAG has statutory enforcement powers under the OML and the authority to investigate and prosecute violations of the OML. NRS 241.037, NRS 241.039, NRS 241.040. The OAG, having reviewed the Complaint and Second Complaint, requested responses from the Board to the complaints, and reviewed the audio recording of the
Board’s June 17, 2021, meeting, issues the following FINDINGS OF FACT AND CONCLUSIONS OF LAW.

**FINDINGS OF FACT**

1. The Board is the governing body of the Southern Nevada Regional Housing Authority (SNRHA). The Board and SNRHA were formed pursuant to Chapter 315 of the Nevada Revised Statutes to exercise public and essential governmental functions.

2. At its meeting occurring on June 17, 2021, the Board formed the Committees and appointed the membership of the Committees. A majority of the membership of each of the Committees are commissioners or staff members of the Board. The Committees are charged with discussion of ways the Board can improve the SNRHA and making suggestions to the Board based on these discussions.

3. The Board and Committees are public bodies as defined in NRS 241.015(4) and are subject to the OML.

4. On May 28, 2021, the OAG sent a letter to the Board requesting a response to the Complaint, including any defenses, and records or documents supporting the response. The Board did not respond.

5. On September 17, 2021, and September 21, 2021, the OAG followed up on the May 28, 2021, request for a response by leaving voicemails with the Executive Director of SNRHA. The Board and SNRHA did not respond.

6. On March 11, 2022, the OAG sent a letter to the Board requesting a response to the Complaint and Second Complaint. The OAG requested the response be provided no later than April 8, 2022. This letter specifically stated if “the Board does not respond, the OAG may enter Findings of Fact and Conclusions of Law without your response.” To date, the Board has not responded.

7. Based on the lack of response from the Board, the only evidence the OAG is in possession of which is relevant to this matter are the statements by Mr. Johnson and the audio of the June 17, 2021, meeting. Accordingly, the OAG views the statements made by Mr. Johnson as undisputed.
8. Sometime prior to May 17, 2021, Mr. Johnson requested the Board mail agendas and supporting material to him pursuant to the OML. The Board replied to Mr. Johnson stating the agenda was available online, and he was not entitled to a copy of the supporting material. Mr. Johnson e-mailed a copy of the NRS (presumably Chapter 241) to the Board. The Board did not provide further response to Mr. Johnson.

**LEGAL STANDARDS AND CONCLUSIONS OF LAW**

The legislative intent of the OML is that the actions of public bodies “be taken openly, and that their deliberations be conducted openly.” NRS 241.010(1); *see also* McKay *v. Board of Supervisors*, 102 Nev. 644, 651, 730 P.2d 438, 443 (1986) (“the spirit and policy behind NRS Chapter 241 favors open meetings”). The term “public body” includes any “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 . . . .” NRS 241.015(4)(a).

Allegation One sets out that the Board failed to provide supporting material for its meetings to Mr. Johnson as required by the OML. “Upon any request, a public body shall provide, at no charge, at least one copy of… supporting material provided to the members of the public body…” subject to certain limitations. NRS 241.020(7). The supporting material must be provided to the requestor at the same time the material is provided to the members of the public body. NRS 241.020(8). The Board is a public body. Mr. Johnson made a request for supporting material. The Board denied Mr. Johnson’s request without stating a reason authorized by law. Thus, the OAG finds the Board violated the OML in failing to provide Mr. Johnson with the requested supporting material.

Allegation Two sets out that the Committees formed by the Board at its June 17, 2021, meeting are subject to the OML and are not complying with the OML. A public body subject to the OML specifically includes subcommittees or working groups appointed by a public body where a “majority of the membership of the subcommittee or working group are members or staff members of the public body that appointed the subcommittee…” or where the “subcommittee or working group is authorized by the public body to make a
recommendation to the public body for the public body to take any action.” NRS 241.015(4)(d). Based on the audio for the Board’s June 17, 2021, meeting, a majority of the membership of each of the Committees are commissioners or staff members of the Board, and the Committees are charged with discussion of ways the Board can improve the SNRHA and making suggestions to the Board based on these discussions. Based on this, it is clear that the Committees are public bodies subject to the OML.

The OAG is not in possession of any evidence that the Committees have complied with the OML. Thus, the OAG finds the Board violated the OML in not ensuring the Committees appointed by the Board as subcommittees or working groups followed the OML.

Based on the Findings of Fact and Legal Standard and Conclusions of Law as set out above, the OAG finds the Board failed to provide supporting material as required by NRS 241.020 (7) and (8) and failed to ensure the Committees followed the OML as required of all public bodies pursuant to NRS 241.010 and NRS 241.020(1).

**SUMMARY AND INCLUSION OF AGENDA ITEM**

If the Attorney General investigates a potential OML violation and makes findings of fact and conclusions of law that a public body has taken action in violation of the OML, “the public body must include an item on the next agenda posted for a meeting of the public body which acknowledges the Findings of Fact and Conclusions of Law.” NRS 241.0395. The public body must treat the opinion of the Attorney General as supporting material for the agenda item in question for the purpose of NRS 241.020. *Id.*

Here, upon investigating the present Complaint and Second Complaint, the OAG makes findings of fact and conclusions of law that the Board committed violations of the OML by failing to provide supporting material and failing to ensure the Committees followed the OML. Therefore, the Board and the Committees must place on their next meeting agendas these Findings of Fact and Conclusions of Law and include them in the supporting material for the meetings. The agenda items must acknowledge these Findings of Fact and Conclusions of Law to be the result of the OAG investigation in the matter of
Attorney General File No. 13897-413, and that it has been placed there as a requirement of NRS 241.0395.

DATED this 13th day of June, 2022.

AARON FORD
Attorney General

By: /s/ John S. Michela
JOHN S. MICHELA
Senior Deputy Attorney General
CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on June 13th, 2022, I served a copy of the foregoing FINDINGS OF FACT AND CONCLUSIONS OF LAW by placing said document in the U.S. Mail, Certified, postage prepaid, addressed to the following:

Board of Commissioners
Southern Nevada Regional Housing Authority
340 North 11th Street
Las Vegas, Nevada 89101

Certified Mail No.: 7020 0640 0000 7651 8824

Lewis Jordan, Executive Director, SNRHA
Southern Nevada Regional Housing Authority
340 North 11th Street
Las Vegas, Nevada 89101

Certified Mail No.: 7020 0640 0000 7651 8817

Olivia Diaz, Chair, SNRHA Board of Commissioners
Southern Nevada Regional Housing Authority
340 North 11th Street
Las Vegas, Nevada 89101

Certified Mail No.: 7020 0640 0000 7651 9302

John Johnson, Complainant

Certified Mail No.: 

/s Debra Turman
Debra Turman, an employee of the
Office of the Nevada Attorney General