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ATTORNEY GENERAL

OFFICE OF THE ARIZONA ATTORNEY GENERAL
CHILD AND FAMILY PROTECTION DIVISION
CIVIL AND CRIMINAL LITIGATION AND ADVICE SECTION

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ASSISTANT ATTORNEY
GENERAL
(602) 542-8195

October 18, 2012

(Via Mail and E-mail: William.Whittington@azbar.org)

William R. Whittington
Boyle, Pecharich, Cline, Whittington & Stallings, P.L.L.C.
125 North Granite Street
Prescott, Arizona 86301

RE: Inscription Canyon Ranch Sanitary District Board Open Meeting Law Complaints

Dear Mr. Whittington:

The Attorney General's Office Open Meeting Law Enforcement Team has received a series of complaints from the same complainant over the last few months against the Inscription Canyon Ranch Sanitary District Board of Directors ("Board") regarding alleged Open Meeting Law violations and other concerns. During our phone discussion last week you confirmed that you do represent the Board and that communications from the Attorney General's Office to the Board regarding the alleged violations could be sent to you as the Board's counsel. I have provided a copy of the complaints and their various attachments with this letter. The complaints have been assigned to me for investigation.

Please note that I am only investigating allegations related to possible violations of the Open Meeting Law. I do not have authority to investigate any other matters that have been raised by the complainant. I will not be investigating or addressing any issues raised that are not directly related to the Open Meeting Law. This includes: 1) allegations of conflicts of interest among the Board members, or among those hired by the Board, or among those contracting with the Board; 2) allegations of breach of fiduciary duty by the Board; 3) allegations of violations of lawyer ethical rules; 4) allegations of Americans with Disabilities Act (ADA) violations; or 5) allegations of violations of Public Records Laws, which are governed by A.R.S. § 39-121 *et seq.*, and not the Open Meeting Laws.

In regards to the Open Meeting Law, the complaints as a whole allege:

- 1) That the Board, or a "constructive committee" of the Board, is meeting, either in person, by e-mail, or through other forms of communication, and conducting Board business outside of public meetings and in violation of Open Meeting Laws, including:
 - a. Discussing/drafting a "Policies and Procedures" document
 - b. Discussing/drafting a "Memorandum of Understanding" document
 - c. Discussing/drafting an "Amended and Restated Development Agreement" document;
- 2) That the Board is holding Executive Sessions in violation of the Open Meeting Laws, including:
 - a. Holding Executive Sessions for improper purposes
 - b. Allowing non-essential personnel to attend Executive Sessions, including counsel for an opposing party in a lawsuit against the Board.

In order to assist me in determining whether there has been a violation of the Open Meeting Laws, I am requesting that you please provide me with a copy of the following information:

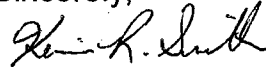
- 1) A copy of the Executive Session Minutes for all District Board meetings (regular and special session) held between June 1, 2011 and August 1, 2012.
- 2) A copy of any Board Meeting Notices, Agendas, and Minutes for any meetings (regular and special session) that occurred between June 1, 2011 and August 1, 2012, for which the complainant has not already provided a copy. You do not need to provide copies of documents which the complainant has already provided.
- 3) An explanation of how 1) the "Policies and Procedures", 2) the "Memorandum of Understanding" and 3) the "Amended and Restated Development Agreement" were created and who was involved in their creation.
- 4) Any other information that you believe is relevant with respect to the allegations noted above.

This request is made pursuant to the Attorney General's authority set out in A.R.S. § 38-431.06. Providing minutes and other materials from the executive session to the Attorney General pursuant to an investigative demand does not constitute the waiver of any privilege. A.R.S. § 38-431.03(F).

ICRSD Board
October 18, 2012
Page

Please provide the requested materials to me no later than November 30, 2012. If you need additional time to prepare the materials or to prepare your response please contact me. If you have any questions please feel free to telephone me at the number listed above.

Sincerely,



Kevin R. Smith
Assistant Attorney General

Cc: Complainant

HDM #2901602