

MAURA HEALEY
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS OFFICE OF THE ATTORNEY GENERAL

ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

(617) 727-2200
www.mass.gov/ago

August 31, 2017

Gary Brackett, Esq.
[REDACTED]
[REDACTED]
[REDACTED]

RE: Open Meeting Law Complaint

Dear Attorney Brackett:

This office received a complaint from you on June 9, alleging that the Southborough Board of Selectmen (the "Board") violated the Open Meeting Law, G.L. c. 30A, §§ 18-25. The complaint was originally filed with the Board on or about April 10, 2017 and Attorney Aldo Cipriano responded, on behalf of the Board, by letter dated April 28, 2017. In your complaint, you allege that the Board improperly deliberated by email on January 22, 2016 and January 25, 2016. For the reasons stated below, we decline to review the complaint.

Complaints alleging violations of the Open Meeting Law must be filed with the public body within 30 days of the alleged violation. G.L. c. 30A, § 23(b). If the alleged violation could not reasonably have been known at the time it occurred, then the complaint must be filed within 30 days of the date it should reasonably have been discovered. 940 CMR 29.05(3); OML 2014-85; OML 2012-52.¹

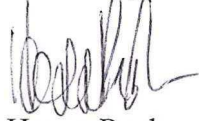
Your complaint concerns email communication sent from the Board chair to the other Board members on January 22, 2016 and January 25, 2016. You obtained copies of those emails from the Board on December 21, 2016, in response to a public records request. Therefore, you could have discovered any alleged violation at that time. See G.L. c. 30A, § 23(b); OML Declination 5-29-15 (Ware Board of Health); OML Declination 7-28-14 (Lanesborough Board of Selectmen); OML Declination 10-18-12 (Savoy Board of Selectmen). Because your complaint was filed with the Board more than three months after you obtained copies of the emails, on April 10, 2017, we find that the complaint is untimely and we decline to review it.

¹ Open Meeting Law determinations and declinations may be found at the Attorney General's website: www.mass.gov/ago/openmeeting.



We now consider this matter closed. This letter does not address any other complaints that may be pending with our office or the Board. Please feel free to contact our office at (617) 963-2540 if you have any questions regarding this letter.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Hanne Rush', with a stylized, cursive script.

Hanne Rush
Assistant Attorney General
Division of Open Government

cc: Aldo Cipriano, Esq.
Southborough Board of Selectmen