

## Discussion Questions

**Question 1.** Your zoning board has received an application for a special exception under the zoning ordinance. At the hearing on the application, it becomes clear that a site visit will be necessary in order for the board to make an informed decision. Having received Right-to-Know Law training, you point out that if a majority of the board visits the site, it will need to be treated as a public meeting: notice must be posted, the public must be allowed to attend, and minutes must be kept.

The applicant objects. He says it's fine if the board wants to do a site walk, but he doesn't want the public there, especially his neighbor. The board wants to accommodate the applicant's wishes, but still comply with the law. Which of the following is the best option?

- a) To avoid the public meeting requirements, send two members of the board to do a site walk with the applicant and report back to the board.
- b) Have each board member visit the site individually, as he or she is able.
- c) Tell the applicant he doesn't have a choice. There is going to be a site walk, and it's going to be treated as a public meeting under the Right-to-Know Law. If he refuses to allow it, his application will be denied.
- d) Treat it as a full public meeting, but don't let the neighbor attend.

**Question 2.** Your planning board is working on a zoning amendment. You have been assigned to prepare a first draft of the amendment, to be discussed at the next meeting. You finish the draft a few days before the meeting and e-mail it to the rest of the board with a simple message: "Attached is my draft of a zoning amendment for discussion at the next meeting."

The next morning you check your e-mail and see several messages from other members of the board, each copied to the entire board. The first message comments at length on your draft; the next two contain responses to those comments; and the last e-mail is a message from the chairman that says simply, "We should not be discussing this by e-mail. Please do not send any more e-mails on this subject."

- a) Has there been a violation of the Right-to-Know Law? If so, at what point?
- b) Which of these e-mail communications (and attachments) would be subject to disclosure if requested under the Right-to-Know Law?

**Question 3.** Change the facts a little. Assume the discussions about the draft amendment were between only two board members.

- a) Would this still violate the Right-to-Know Law's open meeting requirements?
- b) Even if it does not violate the law, would the e-mails be subject to disclosure upon request?

**Question 4.** Change the facts again. Assume the e-mails were exchanged between the planning director and one member of the board.

- a) Would this violate the open meeting requirements?
- b) Would the e-mails be subject to disclosure?
- c) Would the draft zoning amendment be subject to disclosure?

**Question 5.** Additional facts: At the subsequent board meeting, your phone starts to vibrate. You look at it and realize one of the other members, sitting two seats down, is texting you with a private comment about the subject being discussed. You send several texts back and forth on the subject over the next few minutes.

Are you violating the law?

**Question 6.** Which of the following items are “governmental records”?

- a) A letter from a citizen to one planning board member asking about the subdivision review process. Yes \_\_\_\_ No \_\_\_\_
- b) An e-mail from one planning board member (on a five-person board) to two other members, relating to the subdivision review process. Yes \_\_\_\_ No \_\_\_\_
- c) An e-mail from one zoning board member to three others forwarding political commentary about Obamacare. Yes \_\_\_\_ No \_\_\_\_
- d) A message in the planning director’s voice mail asking about an upcoming hearing. Yes \_\_\_\_ No \_\_\_\_
- e) The zoning board clerk’s handwritten notes taken during a meeting, which he will use to prepare the minutes. Yes \_\_\_\_ No \_\_\_\_
- f) A planning board member’s handwritten notes taken during a hearing to keep track of the issues. Yes \_\_\_\_ No \_\_\_\_
- g) An e-mail from one ZBA member to the other four, relating to ZBA business, but sent from his home computer and using his personal account. Yes \_\_\_\_ No \_\_\_\_