

Access must be given to online public meetings



‘Senior housing’ can be advertised as such

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By now all MPA papers should have received copies of the new Sunshine Law from Missouri Press Association. If you need additional copies, you can either contact me, contact MPA headquarters, or come to the convention in Springfield. We'll have plenty of extras.

There are several significant changes in the law. We've already discussed in the July, 2004, column (available on www.mopress.com, if you missed it) some of the changes, including the addition of the term "knowing" in relation to violations, and the lower per-page copy charge of ten cents. Another important change in the law is that any member of a public body sending an email to a quorum of the other members of the body must also send a copy of the message to the custodian of records or to the member's public office computer.

This new statute applies only if the message is "relating to public business." One imagines that will be a subject of discussion in coming months.

A related change in the law involves electronic meetings. Now the law is clear that any meetings conducted either on an internet message board or via web chat programs must have a public notice just like any other open meeting, and the public must have access to that meeting on-line.

The new language also clarifies that taping, either audio or video, is permitted at public meetings.

Inevitably, changes in the Sunshine Law just bring additional issues to the forefront that no one knew were issues before. Despite the best efforts of those who write the law, it never is clear in actual practice, and people whose goal is to avoid disclosure can always find novel ways to close public records or meetings.

We can only hope for more progress.

Two other new laws were effective Aug. 28 that members should note. One is the new SLAPP statute (Senate Bill 807), added to the Missouri Statutes at Section 537.800. It creates a cause of action against a person seeking money damages arising out of speech in connection with a public hearing or public meeting or related situations.

Such actions, which would be filed as a counter-claim to a libel suit, are eligible for expedited hearing by the courts and an award of attorney fees if the court finds the underlying litigation is frivolous.

The other new law makes major changes in chapter 211 of the Missouri Statutes, which governs juvenile proceedings. Beginning July 1, 2005, cases involving alleged abandoned children and termination of parental rights cases will be open to the public, unless the court for good cause chooses to close the hearing.

Further, records on those cases will now be open to the public, except for materials contained in the "confidential file," which includes medical and psychological reports, home studies and police records.

The court will redact the name of any child involved in those cases except for the name of the perpetrator, and also any information that would lead to the discovery of the name of the person reporting child abuse.

Access to these records will only apply to cases initially filed after July 1, 2005.

On another subject, I want to clarify the issue of publishing advertisements for housing developments for senior citizens. The press association has had numerous calls over the years regarding concerns relating to running housing ads that use the terms "senior citizens only."

Recent efforts by HUD to litigate against papers running ads that are discriminatory in nature have made all of us gun-shy.

Many times I have received hotline calls from newspapers, and even talked with the advertisers themselves about whether we can use that term in advertising.

Recently, I had occasion to clarify this one particular issue. The Housing for Older Persons Act of 1995 contains several provisions relating to advertising for housing designed for persons 55 and older. To qualify for that exemption, at least 80 percent of the occupied units must have a resident 55 or older and must have policies and procedures that demonstrate the intent to operate a development for persons in this age range.

Descriptive phrases used in advertising such units that are permissible include the term “senior housing” or “a 55 and older community” or “retirement community.” Use of the term “adult housing” for such units is discouraged.

If the advertiser seeking to run an ad fits within this qualification, then the ad is permissible, despite what would normally be considered discriminatory language.

Further, there is a “good faith” exemption providing immunity from damages for any person who in good faith believes that a property qualifies for the exemption if the advertiser does not know the property is not eligible and if the property owner has formally stated in writing that the property qualifies for the exemption. Consider having advertisers sign a form stating that.