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OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF DELAWARE

Attorney General Opinion 18-IB40

August 24, 2018

VIA EMAIL

Vicki Carmean, Town Councilmember, Town of Fenwick Island
Julie Lee, Town Councilmember, Town of Fenwick Island
Roy Williams, Town Councilmember, Town of Fenwick Island
c/o vlcarmean@verizon.net

RE: FOIA Petition Regarding the Town of Fenwick Island

Dear Councilmembers Carmean, Lee, and Williams:

We write in response to your correspondence received on August 3, 2018 alleging that certain individuals associated with the Town of Fenwick Island ("Town") violated the Delaware Freedom of Information Act, 29 *Del. C.* §§ 10001-10007 ("FOIA"). We treat your correspondence as a Petition for a determination pursuant to 29 *Del. C.* § 10005(e) regarding whether a violation of FOIA has occurred or is about to occur.

You made two allegations: 1) a group of five individuals including the Building Official, Town Solicitor, Mayor, Building Committee Chair, and Town Manager (collectively, "Five Individuals") violated FOIA by discussing a building permit application without providing an opportunity for the public to observe those conversations; and 2) the Building Committee violated FOIA by approving a building permit without holding a public meeting. Because the Five Individuals are not a public body, we find that they did not violate FOIA as alleged. However, we determine that the Building Committee is a public body and that the Building Committee violated FOIA by its failure to conduct a public meeting to approve the building permit application.

As remediation, we recommend that the Building Committee conduct a public meeting to formally vote on the building permit application in question.

This opinion will be supplemented to provide a more detailed explanation for our finding.

Very truly yours,

/s/ Dorey L. Cole

Dorey L. Cole
Deputy Attorney General

Approved:



Ilona Kirshon
Deputy State Solicitor

cc: Mary Schrider-Fox, Esq. (via email)