

Bob Mollette

3rd Ward Councilman

1705 Franklin Blvd.
Portsmouth, Ohio 45662

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Correspondence#: 08-010

March 31, 2008

Ohio Attorney General Marc Dann
State Office Tower
30 E. Broad Street, 17th Floor
Columbus, Ohio 43215-3428

Re: Citizen Rights, Ohio Sunshine Laws, and Portsmouth Municipal Office Space

"When people fear the government there is tyranny. When the government fears the people there is liberty."
Thomas Jefferson

At the City of Portsmouth March 24, 2008 Regular City Council Meeting a majority of Council members suspended the three-reading rule and passed an ordinance which authorized the Mayor to take action to renovate part of the Marting Building for City offices. This swift decision has revived citizens' fear that elected officials may have trampled their rights in the process.

Constituents question the legality of renovating the Marting Building for City offices after referendum petitions placed the renovation issue on the May 2006 ballot and voters overwhelming said no to renovation. Also the ordinance passed March 24, 2008 by Council was based on the recommendations to Council by an Advisory Building Committee that consists of the Mayor, Auditor, Solicitor, and 1st Ward Councilman. In the absence of any documentation to support the Advisory Building Committee's recommendations and lack of open meetings constituents have questioned the legal status of this committee as related to public records and open meeting requirements of the Ohio Sunshine Laws.

I acknowledge the City of Portsmouth has a Charter with a Solicitor for legal advice but our Solicitor is a member of the Advisory Building Committee. I requested the assistance of the Scioto County Prosecuting Attorney Mark Kuhn but he said it would be inappropriate to offer a legal opinion (enclosed).

I fear a government when the expense or complexity of holding that government accountable is beyond the reach of the citizen.

As an elected official I am requesting an investigation and appropriate actions be taken. Please contact me for additional information.

Respectfully,



Bob Mollette, 3rd Ward Advocate and Representative on City Council

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Enclosure

cc: Scioto County Prosecuting Attorney Mark Kuhn
Jim Kalb, Mayor
Michael Jones, Solicitor
Trent Williams, Auditor
Michael Mearan, 1st Ward Councilman
Honorable Council Members
Jo Ann Aeh, Clerk (Record)

MARK E. KUHN

SCIOTO COUNTY PROSECUTING ATTORNEY

PAT APEL
FIRST ASSISTANT



CRIMINAL DIVISION

James Scott Smith
Joseph L. Hale
Danielle M. Parker
Julie Cooke Hutchinson

CIVIL DIVISION

David M. Huddleston
R. Alan Lemons
Chadwick K. Sayre
Marcia Shedroff

INVESTIGATIONS

Blaine C. Dudit
Larry W. Gray

VICTIM ADVOCACY

Norma Crawford
Julie Ratcliff

March 20, 2008

Bob Mollette
3rd Ward Advocate and Representative on City Council
1705 Franklin Blvd.
Portsmouth, Ohio 45662

Dear Councilman Mollette,

I am in receipt of your letter dated March 18, 2008 wherein you request this office's legal opinion on certain matters involving the construction of a new facility at the former Adelphia Cable site and renovation of the former Martings building.

I have reviewed this letter, and as you note, pursuant to the Portsmouth City Charter, the Portsmouth City Solicitor is the legal representative and advisor for the City of Portsmouth in general and all of its councils, boards, committees and office holders. I, as the Scioto County Prosecutor, am specifically directed on which entities I am authorized to represent and advise. These entities are limited, primarily, to county, township, and school boards, councils, committees and office holders. In light of the statute regarding county prosecutors, I am not authorized, and thus prohibited, from giving legal advice to municipalities and their representatives.

Further, I believe it would be inappropriate for me, as Scioto County Prosecutor, to advise city officials when they are represented by their own legal advisor.

If I may be of assistance on any matter within the authority of this office, please do not hesitate to contact me.

Very truly yours,

Mark E. Kuhn
Scioto County
Prosecuting Attorney

Cc: Michael Jones, City Solicitor
Jim Kalb, Portsmouth City Mayor
Trent Williams, Portsmouth City Auditor
Jo Ann Aeh, Clerk

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3rd Ward Councilman

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Correspondence#: 08-009

March 18, 2008

The Honorable Mark Kuhn
Scioto County Prosecuting Attorney
Scioto County Court House, Room 310
Portsmouth, Ohio 45662

Re: Citizen Rights, Ohio Sunshine Laws, and Portsmouth Municipal Office Space

At the March 10, 2008 Work Conference Session a majority of Council members authorized the preparation of legislation to authorize the Mayor to take action to construct a new facility at the former Adelphia site and renovate part of the Marting Building for City offices and community space. This swift decision has revived citizen fear that elected officials may have trampled their rights in the process.

"The liberties of a people never were, nor ever will be, secure, when the transactions of their rulers may be concealed from them.....To cover with the veil of secrecy the common routine of business, is an abomination in the eyes of every intelligent man."
Patrick Henry

In the absence of documentation to support the advisory building committee recommendations constituents have questioned the legal status of this committee as related to the Ohio Sunshine Laws public records and open meeting requirements. Also, constituents have questioned the legality of renovating the Marting Building for City offices after referendum petitions placed the issue on the May 2006 ballot that returned an overwhelming negative vote. I acknowledge the City of Portsmouth has a Charter with a Solicitor for legal advice but our Solicitor is a member of the advisory building committee. I would greatly appreciate your assistance and unbiased opinion on these legal questions.

I remain optimistic that our challenges can be met with informed decisions based on good engineering practices, sensitivity to our taxpayers, and transparent communication.

If you have any questions or comments contact me.

Respectfully,



Bob Mollette, 3rd Ward Advocate and Representative on City Council

rwm

cc: Honorable Council Members
Michael Jones, Solicitor
Jim Kalb, Mayor
Trent Williams, Auditor
Jo Ann Aeh, Clerk (Record)