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May 28, 2014 · 1 Comments



ORLAND PARK, IL. ([ECWd](#)) -

## **#4. Insisting that items that were *void ab initio* are not actually *void ab initio*.**

For those not familiar with this phrase, “*void ab initio*” simply means “*void from the beginning*” or “*treated as invalid from the outset*” or more simply “*did/does not exist*”.

This happened at the 5/19/14 monthly board meeting, where attorney James Fessler represented the OPPL-BoT and insisted that policies the Board “passed” at the illegal meeting on February 12th, and improperly “ratified and affirmed” on March 17th were valid.

We all know that lawyers lie and attempt to game the system for their clients, but should a lawyer like Fessler (who is paid by the public with tax dollars) really be blind to the fact that changes to public comment policy that were “ratified and affirmed” on March 17th aren’t valid because there was no public recital or deliberation ever held on these items, as required by the OMA?

In particular, what Fessler wanted enforced was a highly questionable ban that the OPPL-BoT put in place regarding anyone participating in Public Comment via videoconferencing equipment like FaceTime or SKYPE. Primarily, this ban has been put in place to prevent Dan Kleinman (the national expert on the lies told by the American Library Association to keep things like child porn accessible in public libraries) from participating in OPPL-BoT meetings via SKYPE. Kleinman attempted to speak during the December 2013 board meeting but was not allowed, even though neither the OMA nor the OPPL had any restriction banning participation via SKYPE in Public Comment. That’s when the OPPL-BoT decided to rewrite their rules for Public Comment at the illegal February 12th, 2014 meeting to specifically ban Dan Kleinman from ever SKYPE-ing into a meeting and addressing the Board.

Mind you, the OPPL-BoT has not only invited the American Library Association and the Illinois Library Association to send representatives to the OPPL-BoT’s meetings to speak in favor of continuing to allow child porn to be available in libraries, but the OPPL-BoT also has invited Deborah Caldwell Stone (a lawyer at the ALA) to attend closed session board meetings (such as

the one held on January 13th, 2014) to advise the OPPL-BoT on how it can maneuver to keep the child porn available in this library.

But, since Dan Kleinman speaks from the opposing point of view — that child porn should not be allowed in a public library — great effort is made to silence this man. Since the OMA does not forbid videoconferencing during public comment and the “rules established and recorded by the OPPL” did not forbid it, the OPPL-BoT had no grounds to ban Dan Kleinman from speaking last December (but of course they did it anyway because they did not like what he had to say). They then attempted, but bungled, the passage of Public Comment restrictions designed to prevent Kleinman from ever speaking during Board Meetings.

Are restrictions barring videoconferencing reasonable when the OMA explicitly states that no public body shall pass unreasonable restrictions on Public Comment? That’s a question that’s now before the PAC and we are awaiting the decision. In any event, the OPPL-BoT has never properly passed such policies and James Fessler is either lying or is truly incompetent if he states otherwise.

### **#3. Allowing Beth Gierach to be seated as a Board Member when her appointment to the Board was bungled twice now.**

This is more fallout from the disastrous February 12th meeting gambit, and subsequent improperly performed “ratify and affirm” session of March 17th.

Beth Gierach was appointed to fill a vacated Board position on February 12th, but of course that meeting has been declared to have been illegal. Please see Items #2 and #5, regarding the improper handling of that “ratify and affirm” meeting of March 17th (where no public recital or deliberation was performed on anything that was being “ratified and affirmed” from the illegal February 12th meeting).

Since a public body cannot magically make legal anything that was illegal and *void ab initio* without holding proper public recital and deliberation on those items at a meeting that is convenient to the public, that means that Beth Gierach’s second appointment to the Board (held as a “ratify and affirm” item on March 17th) is *void ab initio*.

Gierach also declined to take the oath of office again on March 17th, though even if she had it would have been improperly administered due to the bungled nature of both attempts at appointing her to the Board. This is a very serious matter because the OPPL-BoT has someone who is treated as a Board member and who votes on items for final action when that person has never been properly appointed to the Board.

It’s created quite a lot of chaos, particularly when Gierach serves as a tie-breaking vote. Since she has never been properly appointed, her votes should not count. Often, spending sprees worth millions of dollars in construction or capital costs are voted on by the OPPL-BoT...meaning that

someone who is not properly appointed is casting votes that should rightfully be voided. Great sums of taxpayer money are at stake as Gierach always votes with the Board members in favor of reckless spending and keeping the child porn available in the Library.