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## Advisory Opinion 11-012

This is an opinion of the Commissioner of Administration issued pursuant to Minnesota Statutes, section 13.072 (2010). It is based on the facts and information available to the Commissioner as described below.

### **Facts and Procedural History:**

On July 25, 2011, the Information Policy Analysis Division (IPAD), received a letter dated July 11, 2011, from Cathy Busho. In her letter, Ms. Busho asked the Commissioner to issue an advisory opinion as to whether the Dakota County Agricultural Society Board is subject to Minnesota Statutes, Chapter 13D, the Open Meeting Law.

IPAD, on behalf of the Commissioner, wrote to Don Storlie, President of the Board, in response to Ms. Busho's request. The purposes of this letter, dated July 27, 2011, were to inform him of Ms. Busho's request and to ask him to provide information or support for the Board's position. On August 16, 2011, IPAD received a response, dated same, from Mr. Storlie.

A summary of the facts as Ms. Busho provided them is as follows. In her opinion request, she listed several instances in Minnesota law that reference the Agricultural Society and link it to having a public purpose or connection, such as being the recipient of public monies:

The [Agricultural Society] was found [sic] in 1858 and incorporated in 1918 as a perpetual non-profit corporation pursuant to now [Minnesota Statutes, Chapter 38]. The primary task is to operate the Dakota County Fair. The membership in the corporation is open to any adult who resides in Dakota County. The members of the [Agricultural Society] elect a Board of Directors at its annual meeting ... .

The Dakota County Board of Commissioners has authority under [Minnesota Statutes, section 375.18, subs. 8 and 9] to appropriate money to help agricultural societies with land and lease of land. ...

The [Agricultural Society] has [statutory authority] to receive support services from Dakota County. [Minnesota Statutes, section 383D.49.] ...

The [Agricultural Society] is listed as a Governmental Subdivision in [Minnesota Statutes, section 353.01, subdivisions 2a(5) and 6(b) – certain full-time employees of the Agricultural Society are members of the Public Employees Retirement Association.] ...

The [Agricultural Society] receives a distribution of aid from State of Minnesota as payment for Fair Premiums paid for exhibits shown at the county fair. [Minnesota Statutes, section 38.02.]

Ms. Busho also noted that in Advisory Opinion 10-004, the Commissioner opined that the Agricultural Society is subject to Minnesota Statutes, Chapter 13, government data practices:

... [p]ursuant to section 13.02, subdivision 11, a political subdivision includes an entity created pursuant to law. Minnesota Statutes, Chapter 38, contains the enabling legislation that grants county agricultural societies their powers and responsibilities. Thus, county agricultural societies are political subdivisions as that term is defined in Chapter 13.

**Issue:**

Based on Ms. Busho's opinion request, the Commissioner agreed to address the following issue:

Is the Dakota County Agricultural Society Board subject to Minnesota Statutes, Chapter 13D?

**Discussion:**

Most public bodies are subject to Minnesota Statutes, Chapter 13D, the Open Meeting Law.

The Minnesota Supreme Court continually recognizes the law's importance. In *Prior Lake American v. Mader*, 642 N.W.2d 729, 735 (Minn. 2002), the court wrote:

The Open Meeting Law serves several purposes:

(1) "to prohibit actions being taken at a secret meeting where it is impossible for the interested public to become fully informed concerning [public bodies'] decisions or to detect improper influences"; (2) "to assure the public's right to be informed"; and (3) "to afford the public an opportunity to present its views to the [public body]."

*St. Cloud Newspapers, Inc. v. Dist. 742 Cmty. Schs.*, 332 N.W.2d 1, 4 (Minn. 1983) (citations omitted). These purposes are deeply rooted in the fundamental proposition that a well-informed populace is essential to the vitality of our democratic form of government. [footnote omitted]

Minnesota Statutes, section 13D.01, subdivision 1, states:

All meetings, including executive session, must be open to the public ...

(b) of the governing body of a

- 1) school district however organized,
- (2) unorganized territory,
- (3) county,
- (4) statutory or home rule charter city,
- (5) town, or
- (6) other public body ...

In his comments to the Commissioner, Mr. Storlie wrote:

In response to your letter, we are abiding by the open meeting laws. We were questioned about the open meeting laws back about 3 years ago and we did have an opinion written by our attorney at that time so we are quite sure we are doing it according to the law. ...

Given that the Agricultural Society is subject to the requirements of Minnesota Statutes, Chapter 13, receives public monies, and has authority (eminent domain power – Minnesota Statutes, section 38.05 and tax levy power through the county – Minnesota Statutes, section 38.27) similar to that of the public bodies specifically referenced in Minnesota Statutes, section 13D.01, subdivision 1, the Commissioner concludes that the Board is an “other public body” and, as such, is subject to Chapter 13D.

**Opinion:**

Based on the facts and information provided, the Commissioner’s opinion on the issue Ms. Busho raised is as follows:

The Dakota County Agricultural Society Board is subject to Minnesota Statutes, Chapter 13D.

Signed:   
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Spencer Cronk  
Commissioner

Dated: September 8, 2011