



## **What's New under the Sun?**

The Iowa Court of Appeals recently ruled that when a governmental body holds a closed session of an open meeting under Iowa Code section 21.5(1)(c) "to discuss strategy with counsel," legal counsel for the governmental body must be in attendance at the closed session either in person or by electronic means. *Olinger v. Smith*, No. 15-1837 (Ia. Ct. App. 12/21/2017).

Because the defendants in the case, three county supervisors who also serve as members of a drainage district, did not have legal counsel present for the closed session, the Court determined that the open meetings laws had been violated.

The Court assessed statutory damages of \$200.00 against each of three defendants and assessed each defendant a one-third share of the \$5440.83 in trial attorney fees and \$13,037.22 in appellate attorney fees as authorized by Iowa Code section 22.10.

This result is consistent with the rules of the Iowa Public Information Board which also expressly require legal counsel for the governmental body must be in attendance at the closed session either in person or by electronic means when an open meeting closes for this reason. (See 497 IAC 8.2(1)).

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*"What's New under the Sun" is a periodic publication of the Iowa Public Information Board to update Iowans on changes to the Sunshine Laws concerning open meetings and public records. Opinions, rulings, FAQs, monthly columns, and training documents are available on the IPIB website – [www.ipib.iowa.gov](http://www.ipib.iowa.gov). Questions for the IPIB can be posted on the website or by calling 515-725-1781.*