

July 27, 2018

Via Email (jheidt@law.ga.gov)
and Regular U.S. Mail

Josiah Heidt, Esq.
Assistant Attorney General
40 Capitol Square, SW
Atlanta, Georgia 30334

Re: IERB members holding over beyond term of office

Dear Josiah:

I am writing to you in your capacity as attorney for the Immigration Enforcement Review Board (“IERB”). Based on my investigation, it appears that IERB members Shawn Hanley and Phil Kent have no legal right to continue holding office as members of the IERB.

Both Mr. Hanley and Mr. Kent were originally appointed to the IERB by Governor Deal on or before September 2, 2011. It appears Mr. Hanley and Mr. Kent were never reappointed at the end of their initial term to an additional two-year term, as required by O.C.G.A. § 50-36-3(b). As you know, I submitted an Open Records Act request to the IERB, but neither IERB staff nor any of the current members were able to locate any documentation evidencing any re-appointment. With respect to Mr. Hanley and Mr. Kent, I have followed up with an Open Records Act request to the Governor’s Office, which also was not able to locate any records evidencing re-appointment of these two members at any time. Yesterday, I confirmed with Ms. Carol Schwinne, who serves as the administrative support for the IERB, that she does not know whether any of the current members of the IERB have ever been reappointed.

Even if Mr. Hanley and Mr. Kent were re-appointed at the end of their initial term in September 2013, IERB members are term limited by statute to two two-year terms. O.C.G.A. § 50-36-3(b). Therefore, they apparently have been “holding over” since approximately September 2, 2015, and illegally holding over since approximately September 2, 2017. See, e.g. 2011 Op. Att’y Gen. No. 2011-4.

Expedited action on this situation is critical. The IERB has multiple pending cases, in which these individuals have no legal right to participate. Mr. Hanley, the Chairman of the IERB, has stated publicly that a hearing in the case pending against my client, the City of Decatur, could be rescheduled any day. And it appears that decisions continue to be made by these individuals with respect to the IERB.

Josiah Heidt, Esq.

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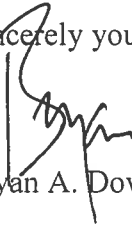
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Therefore, please let me know by **5:00 p.m. on Monday, July 30, 2018**, if you have any credible explanation as to how Mr. Hanley and Mr. Kent are entitled to continue holding office with the IERB -- almost seven years after they were initially appointed to a position that was limited to a maximum service of four years. Of course, please also let me know if our factual conclusions are in any way incorrect. If Mr. Hanley and/or Mr. Kent decide to resign their positions, please provide me copies of their resignation letters.

We also ask that you promptly review the status of IERB members Terry Clark, Boyd Austin and Mike Yeager. There appears to be no evidence that these members, who also were initially appointed in 2011, have ever been reappointed.

If you have any questions or need to discuss further, please let me know.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Bryan A. Downs". The signature is stylized with a large initial "B" and a long horizontal stroke at the end.

Bryan A. Downs