

# GOREN, CHEROF, DOODY & EZROL, P.A.

ATTORNEYS AT LAW  
SUITE 200  
3099 EAST COMMERCIAL BOULEVARD  
FORT LAUDERDALE, FLORIDA 33308  
PHONE: (954) 771-4500  
FAX: (954) 771-4923  
www.cityatty.com

SAMUEL S. GOREN  
JAMES A. CHEROF  
DONALD J. DOODY  
KERRY L. EZROL  
MICHAEL D. CIRULLO, JR.  
JULIE F. KLAHR

DELRAY BEACH OFFICE:  
76 N.E. FIFTH AVENUE  
DELRAY BEACH, FL 33483  
PHONE: (561) 276-9400

DAVID N. TOLGES  
JAMILA V. ALEXANDER  
JACOB G. HOROWITZ  
SHANA H. BRIDGEMAN  
ANNABELLA BARBOZA

STEVEN L. JOSIAS, OF COUNSEL

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## FLORIDA ATTORNEY GENERAL ISSUES OPINION RELATED TO SHADE SESSIONS

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### A CITY IS A REAL PARTY IN INTEREST TO LITIGATION EVEN THOUGH THE CITY IS NOT A NAMED PARTY

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The State of Florida Attorney General issued Attorney General Opinion 2009-015 on April 23, 2009, in response to a request submitted by Samuel S. Goren, City Attorney for the City of Pembroke Pines ("City"). The City had sought an opinion from the Attorney General as to whether the City may hold an attorney-client session pursuant to Section 286.011(8), Florida Statutes, to discuss pending litigation where the main defendant is a City employee who is fully indemnified by the City, and the City is responsible for the full cost and coordination of the defense, but the City is not a named party to the litigation. In the Attorney General's opinion, the City of Pembroke Pines **is a real party in interest** in a pending lawsuit; therefore, it may conduct a closed attorney-client session under 286.011 (8), Florida Statutes, to discuss the pending litigation, despite not being a named party at the time of the meeting.

At the current time, there is litigation ongoing, which had been filed against, the principal of the City of Pembroke Pines Charter Schools in his individual capacity. As a City employee, the principal is fully indemnified under the City's Charter for damages arising out of any act, event, or omission in the scope of his employment. The City is coordinating the Principal's legal defense, and is bearing the full cost of the suit.

The Attorney General recognized the authority of a City Commission to hold a closed meeting pursuant to Section 286.011 (8), Florida Statutes. In finding that the City was the real party in interest, the Attorney General relied on the case of *Brown vs. Lauderhill*, 654 So.2d 302 (Fla. 4<sup>th</sup> DCA 1995). In the *Brown* case, both the appellate court and the Attorney General found that even though the City was not a named party to the litigation, that due to the City's Charter obligations, as exist in this current matter, to fund and coordinate the defense of its own employee, that the City was the real party in interest. Consequently, the City Commission could conduct a closed attorney-client session under section 286.011(8), Florida Statutes.