

OPEN MEETINGS ADVISORY OPINION NO. 2003-07

Issued On July 10, 2003 By The

**WEST VIRGINIA ETHICS COMMISSION
COMMITTEE ON OPEN GOVERNMENTAL MEETINGS**

OPINION SOUGHT

The Berkeley County Farmland Protection Board (BCFPB or Board) asks if it may meet in an executive session to review and discuss applications from landowners seeking to have their property included in the Berkeley County Farmland Protection Program.

FACTS RELIED UPON BY THE COMMITTEE

The BCFPB will be meeting to consider requests from eligible landowners to have real property included in an established Farmland Protection Program. Applications offering to enter into easements excluding such property from being used for non-agricultural purposes are expected to exceed the amount of public funds available to purchase the required easements. The Board must consider several factors in determining which easements will provide the best public value from available funds.

CODE PROVISIONS RELIED UPON BY THE COMMITTEE

W. Va. Code § 6-9A-4 provides in pertinent part:

(b) . . . A public agency may hold an executive session and exclude the public only when a closed session is required for one of the following actions:

(9) To consider matters involving or affecting the purchase, sale or lease of property, advance construction planning, the investment of public funds or other matters involving commercial competition, which if made public, might adversely affect the financial or other interest of the state or any political subdivision

ADVISORY OPINION

The Open Governmental Proceedings Act permits governing bodies to hold an executive session and exclude the public only when a closed session is required for one of several actions specified in W. Va. Code § 6-9A-4. BCFPB will be considering matters involving or affecting the purchase of property easements limiting the use of land to agricultural purposes. The Board must weigh a number of variables in determining how public funds should be expended, premature disclosure of which could adversely affect the Board's ability to obtain the best value to the public from these expenditures. Therefore, upon a majority vote of BCFPB's members, the Board may go into executive session to discuss applications seeking inclusion in the Berkeley County Farmland

Protection Program. However, any required official action by the Board must be voted upon in open session.



Chairman