

# EVERYDAY DEMOCRACY

CITIZEN ADVOCACY CENTER'S SEASONAL NEWSLETTER, FOURTH EDITION, 2007

## Citizen Activists Now Have Protection

The right of citizens to participate in the democratic process is at the basis of our form of government. However, in order for a functional democracy to thrive, it is not enough for citizens to merely know what their rights are; the citizenry must flex their civic muscles and wield their power potential. Indeed, Martine Luther King Jr. said, "Education without social action is a one-sided value because it has no true power potential." That being said, once citizens take to heart the notion that it is everyone's individual responsibility to be an active participant in the shaping of public policy, they have to be resolute against SLAPP suits.

SLAPP suits are Strategic Lawsuits Against Public Participation. The sole purpose of the SLAPP is to chill the public participation of citizens who petition their government, assemble to have their voice heard, and utilize their freedom of speech to affect public policy decision-making. More often than not, a SLAPP suit is filed by a developer against a citizen or citizen group who speaks out at government hearings or to government officials about environmental or zoning issues, and is based on an alleged interference with a business interest.

SLAPP suits, or even the threat of a SLAPP, are very effective in chilling public participation. SLAPP suits result in the citizen or citizen group redirecting their focus, resources, and energy to defend a meritless suit in the legal setting rather than addressing a public policy issue in a community forum. The Center has had first-hand experience with SLAPP suits when we defended a homeowner's association from a \$110 million lawsuit when individuals attended a Forest Preserve public hearing and gave public comment in opposition to a sale of land for a commercial development. While the Center successfully defended the homeowner association, the filing of the SLAPP action was a stark reminder of the challenges individuals may face when they speak out.

Illinois now joins more than 20 states that have passed anti-SLAPP laws to protect citizens who participate in the democratic process. The Citizen Participation Act, Public Act 095-0506, states that the Constitutional rights of citizens and organizations to participate freely in the process of government must be encouraged and safeguarded.

*See Citizen Participation Act, page two*

## Building Democracy Internationally

Annually, the Center hosts several groups of international visitors as part of an exchange program with Heartland International. The purpose of the exchange program is to act as a catalyst in strengthening emerging democratic institutions. The purpose of visiting the Center is to talk with community lawyers and activists about how to practically build democracy at local level, build the capacity of community members to be effective advocates, improve youth civic education, use the legal system to advance justice, and financially sustain a non-profit organization.

Our latest group of visitors was fifteen secondary educators from Indonesia who wanted to know about civic education in United States schools, how our democracy works in practice, and how to establish an organization like the Center in their country. Center staff and volunteers discussed the lack of mandated civic education in schools, how schools can establish hands-on civic programs, and how to make civic education interesting and stimulating for young people.

The visit provided for a thoughtful discussion of the Freedom of Speech in theory versus in practice, and the differences between having a democracy in theory versus in reality.

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The following are major components of the Act:

- The Citizen Participation Act applies *after* a lawsuit has been filed against a person or organization;
- The people who are the subject of the SLAPP can file a motion to dismiss the lawsuit. The motion highlights that the defendant's actions are immune from liability, regardless of intent or purpose, because the actions were based on Constitutional rights of petition, speech, association, or another action taken to participate in government;
- The Court must hear the motion within 90 days and *is required* to grant the motion to dismiss the case unless the court finds that there is clear and convincing evidence that the acts of the individuals defending the lawsuit are not immunized from, or in furtherance of, procuring a favorable government action, result, or outcome; and
- The court is required to award reasonable attorney's fees and costs incurred in connection with the motion.

While citizens will still have to defend themselves in a lawsuit, the Citizen Participation Act mandates that a judge rule in their favor and award reasonable attorney fees to those who seek to have their voice heard through engaging in Constitutionally protected activity.

The Center receives hundreds of calls a year from the public seeking answers to questions of public concern. Below is a recent question posed to the Center:

*Can term limits for municipal and county public officials be implemented through a referendum?*

**Yes, term limits may be implemented through a citizen referendum or a referendum placed on the ballot by the public body.**

The Illinois Constitution states that home rule units of government (Sec. 6 (f)), non-home rule units of government (Sec.7 (3)), and home rule counties (Sec. 4(c )) may determine terms of office by referendum. How long public officials serve, be it for two years, four years, or some other duration of time, are 'terms' of office. The Illinois Constitution provides citizens the opportunity to directly impact how long public officials serve by being able to place a binding referendum on the ballot.

The Illinois Election Code describes how term limit referendums can be placed on the ballot. The first way is by a local unit of government passing a resolution to place a term limit question on the ballot. The second way is through a citizen-initiated effort whereby the public submits the term limits question by filing a petition with the signatures of at least 10% of the registered voters in a governmental unit.  
(10 ILCS 5/28-7)

## **The Citizen Advocacy Center is moving!**

After almost ten years in the same location, the Center will start 2008 in a new location. Our new office will be located at 182 N. York, just one block south of our current location in the heart of downtown Elmhurst.

Volunteers are needed to help move the Center! Please call 630.833.4080 or email [cac@citizenadvocacycenter.org](mailto:cac@citizenadvocacycenter.org) to help.

Additionally, the Center's staff has compiled a wish list for our new location:

Heavy Duty Copy Machine  
Two Computers with Latest Operating Software  
Westlaw or Lexis Access  
Large Folding Cafeteria Tables  
Refrigerator

The Center is a 501(c)(3) organization and all contributions are tax-deductible.

## CAC Welcomes New Community Lawyer



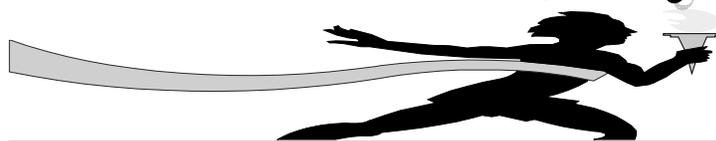
The Center welcomes our new community lawyer, Ms. Natalie Brouwer. Ms. Brouwer was the Center's Public Interest Law Initiative intern in 1998, during which time she helped Pilsen residents organize to oppose the creation of a tax increment financing district and testified before a State Committee.

The Center is happy to welcome Ms. Brouwer back as a community

lawyer! In addition to answering intake calls and helping citizens organize community campaigns, Ms. Brouwer is the project coordinator for our Midwest States Open Government Project and will also be working on the Center's youth civic education program.

Prior to returning to the Center, Ms. Brouwer practiced in a litigation firm in Washington D.C. She is also a member of the Florida Bar and is in the process of obtaining her Illinois license. Come in for a cup of coffee and meet Natalie!

## We Need YOU to Meet the Challenge!



The Center has been issued matching grant challenges by the end of 2007 by two supporters:

**Raise \$5,000 in contributions of \$500 or more**  
**Raise \$5,000 in contributions of \$100 or more**

Matching grants help the Center expand community support and allow individual contributions to count for twice as much.

If you have already made a donation, thank you! If you are able to help the Center meet these challenges, please consider making a tax-deductible contribution today. Thank you for your support!

### Open Meetings Act Update

The Open Meetings Act ("Act") is a law that mandates that the peoples' business must be conducted openly. The Act describes notice requirements, when a public body may close a meeting, and the public's right to tape public meetings.

A "meeting" is a gathering of public officials who come together for the purpose of discussing public business. How many public officials from the same public body may "meet" is the subject of the legislative amendment.

Prior to the amendment, all public bodies were subject to the same standard: the gathering of a *majority of a quorum* of public officials who meet to discuss public business. A quorum is one plus half of the public body that must be present, either in

person or by phone, in order for a binding decision to be made.

The amendment altered the definition of a meeting when there is a five member public body. Specifically:

- A quorum (three people) must be present for a public meeting.
- The affirmative vote of three members are necessary to adopt any motion, resolution, or ordinance, unless a greater number is otherwise required.

The Act does not address if the three person quorum rule also applies to a four member public body.

### **FCC Holds Public Hearing On Broadcaster Ownership**

The Federal Communication Commission (FCC) recently held a public hearing in Chicago where 800 people attended. Issues addressed included how many broadcast outlets a company should be allowed to own and in what combinations, minority ownership, and if broadcasters are airing sufficient public interest programming.

The airwaves, like national parks, are owned by the public. Licensed FCC broadcasters have free access to the public airwaves, subject to "serving the public interest." However, the definition of public interest programming has been eroded over the last 80 years to allow broadcasters to operate with virtually no accountability.

The Center is a member of the Midwest Democracy Network, a coalition of good government organizations that called on the FCC to establish specific standards for broadcasters regarding programming that promotes informed civic participation. According to the Pew Center for People and the Press, 76% of Americans say they receive most information about elections from television. However, a recent study from the University of Wisconsin-Madison's NewsLab documented that the actual amount of election coverage by broadcasters is abysmal.

The study analyzed local TV election news coverage from Labor Day to Election Day 2006; and federal, state and local government from January 1 through March 31, 2007.

*FCC Public Hearing continued on page 4*

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*Everyday Democracy* is a publication of the *Citizen Advocacy Center*, a non-profit, nonpartisan, 501(c)(3) corporation. Submissions from citizen advocates in the western suburbs of Chicago are encouraged. The *Center* is an educational and charitable organization dedicated to building democracy for the 21st century by strengthening the public's capacities, resources, and institutions for self-governance.

If you are interested in receiving more information, becoming a volunteer, or making a tax-deductible contribution to the *Center*, please feel free to contact or visit us.

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*FCC Public Hearing continued*

Results indicated that:

1: Between Labor Day and October 6, the traditional beginning of the election season, television stations in nine Midwest markets averaged 36 seconds of election coverage during the typical 30-minute local news broadcast. Seven minutes were dedicated to sports and weather, and almost two and a half minutes were dedicated to crime stories.

2: During the final month before the elections, local television news viewers in nine Midwest markets received more campaign information from paid political advertisements than from actual news coverage. In seven markets, nearly four and a-half minutes of paid political ads aired during the typical 30-minute broadcast compared with an average of one minute and 43 seconds of election news coverage.

3: During the first quarter of 2007, the 36 Midwest stations surveyed dedicated one minute and 35 seconds to government news during a typical 30-minute broadcast in contrast to the more than two minutes spent on sports, weather, and crime stories.

The Midwest Democracy Network called on the FCC to require broadcasters licensed by the FCC to:

1. Air a minimum of three hours per week of local civic or electoral affairs programming on the most-watched channels they control or operate.

2. In the 30 days before a primary election for federal, state and/or local public office, and 60 days prior to a general election for federal, state and/or local public office, broadcasters must devote at least two hours to local electoral affairs programming. Additionally, the programming must

be aired between the hours of 6:00 a.m. and 9:00 a.m. and 5:00 p.m. and 11:35 p.m. on the broadcaster's most watched channel.

3. For channels that air multi-cast, additional free over-the-air programming streams, broadcasters must air whichever is less of local civic or electoral affairs programming: three hours per week, per channel, or three percent of the aggregate number of hours broadcasted between 6:00 a.m. and 11:35 p.m. per week.

With the upcoming conversion from analogue to digital, now is an opportune moment to re-establish and enforce the public interest mandate of broadcasters who, through the free use of the public's airwaves, generate substantial profit.