November 5, 2026

VIA ELECTRONIC MAIL
[redacted]

RE: Resolution of Complaint Concerning Alcoholic Beverage and Cannabis Board's Compliance with the Open Meetings Act (#OOG-2025-0059)

Dear [redacted]:

On October 28, 2025, the Office of Open Government ("OOG") received your complaint (#OOG-2025-0059) ("Complaint") alleging that Alcoholic Beverage and Cannabis Board ("ABC Board," or the "Board") "regularly does all of their deliberation behind closed doors during their hearings" and that the Board does not "share the legal authority or their deliberations."[1] In your clarification email to OOG on October 29, 2025, you state that "ABC Board regularly goes into executive session without giving good reasons, … they do all of their deliberations behind closed doors … with no legal explanations for their reasoning."[2]

The Office of Open Government has the statutory charge to ensure that public bodies adhere to the Open Meetings Act.[3] The OMA reiterates the District of Columbia's long-standing public policy that "all persons are entitled to full and complete information regarding the affairs of [the] government and the actions of those who represent them."[4] To support this policy, the OMA requires that its provisions be construed broadly to increase public access to public bodies' meetings.[5]

Pursuant to 3 DCMR § 10400 *et seq*.,[6] I reviewed and assessed your Complaint and your clarifying information, provided on October 29, 2025.[7] I also reviewed Alcoholic Beverage and Cannabis Administration's ("ABCA") General Counsel's response to your Complaint. OOG's

[1] Email from [redacted] to Office of Open Government (OOG), on October 28, 2025.
[2] Email from [redacted] to Attorney Advisor Joan Lelma (OOG), on October 29, 2025.
[3] D.C. Official Code § 2-571, *et seq*.
[4] D.C. Official Code § 2-572.
[5] D.C. Official Code § 2-573.
[6] D.C. Municipal Regulations Section 3-10400 – Filing and Presentation of Complaints.
[7] Email from [redacted] to Office of Open Government (OOG), on October 28, 2025; Email from [redacted] to Office of Open Government (OOG), on October 29, 2025.

legal staff reviewed seven (7) ABC Board's open session meetings and four (4) closed sessions, of which a member of staff attended (in part) live virtually two (2) of the open sessions.

Upon consideration of the detailed background below, OOG's investigation results, and ABCA's response on behalf of ABC Board, I find that the Board has not violated the OMA by addressing statutorily permitted matters in closed or executive sessions. The Board provided a brief description of the matters to be discussed on its agendas and stated the subject(s) to be discussed before entering closed or executive sessions of its meetings. The Board has not discussed or considered matters in closed session other than those matters listed under D.C. Official Code § 2-575(b) for which the ABC Board Chairman gave the public notice of prior to closure. Albeit, I find that the subjects ABC Board voted on to enter closed session for some of the meetings investigated are deficient considering the intent of the OMA to advance government openness and transparency and the Final Rulemaking that I issued on June 26, 2026, which amends Chapter 104 (Office of Open Government) to Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulations (DCMR).[8] The Final Rulemaking was issued after OOG received the subject Complaint.[9] The latter demonstrates that D.C. Official Code § 2-575(c)(2) "The presiding officer shall make a statement providing the reason for closure" requires "a general description of the specific subject matter to be discussed."[10] The statement "on the Board's investigative agenda, legal agenda and licensing agenda" does not fully satisfy the statutory requirement.[11] The Final Rulemaking that clarifies and conforms amendments consistent with the OMA meeting requirements was adopted after the subject Complaint.[12]

A public body is not required by the OMA to make publicly available (report out) legal explanations (legal authority) for its decision(s) made in closed session and to provide "good reasons" for conducting closed session meetings. The reasons for a public body to enter closed/executive session are not legally determined by whether they are "good reasons"[13] in the opinion of the public but whether one or more of the sixteen (16) statutory reasons for entering closed session is met.[14] As such, I find no OMA violation and must dismiss this matter pursuant to 3 DCMR §10401.1(b) because the actions complained of do not violate the OMA.

---

[8] https://www.open-dc.gov/documents/notice-final-rulemaking-chapter-104-office-open-government-0.
[9] Email from [redacted] to Office of Open Government (OOG), on October 28, 2025;
Email from [redacted] to Office of Open Government (OOG), on October 29, 2025.
[10] D.C. Official Code § 2-575(c)(2); Final Rulemaking amendments to Chapter 104 (Office of Open Government) Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulation (DCMR), § 10411.4(a).
[11] *See* Transcript of Alcoholic Beverage and Cannabis Board September 10, 2025, meeting, p. 35; *See* timestamped 7:38:07 for the vote to enter closed session on November 19, 2026, https://www.youtube.com/watch?v=atJY0KvAVz4; The vote is not located in the Show Cause Hearing Transcript of November 5, 2025; *See* Transcript of Alcoholic Beverage and Cannabis Board January 8, 2026, meeting, p. 36; *See* Transcript of Alcoholic Beverage and Cannabis Board January 14, 2026, meeting, p. 151.
[12] D.C. Official Code § 2-575(c)(2); Final Rulemaking amendments to Chapter 104 (Office of Open Government) Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulation (DCMR), § 10411.4(a), https://www.open-dc.gov/documents/notice-final-rulemaking-chapter-104-office-open-government-0; Email from [redacted] to Office of Open Government (OOG), on October 28, 2025;
Email from [redacted] to Office of Open Government (OOG), on October 29, 2025.
[13] Email from [redacted] to Office of Open Government (OOG), on October 29, 2025.
[14] D.C. Official Code § 2-575(b).

However, I remind and caution ABC Board to ensure that if the Board's members cannot reasonably vote to enter a closed session of a meeting immediately before entering into the closed session of the meeting, and the Board instead takes the vote at its open session meeting that occurs directly before the date of the planned closed session, at the beginning of the closed session, the Board's Chair or designee must recite the vote of the preceding meeting to enter into its closed session.[15] Also, in keeping with the spirit of the District's open meeting laws' charge to conduct meetings with openness and transparency, upon ABC Board's return to open session after its closed session, the Board must report publicly any official action taken in closed session.[16]

As Director of Open Government, I am empowered to issue an Advisory Opinion on compliance with the Open Meetings Act on my own initiative.[17] Pursuant to 3 DCMR § 10407.1, I am addressing *sua sponte* ABC Board's compliance with the Open Meetings Act requirement to state the full statutory reasons/exceptions when a motion is made and votes are taken to enter closed/executive session of a meeting and to do likewise on its agenda, if feasible.[18] OOG's investigation revealed that the ABC Board does not always provide in full the relevant Open Meetings Act reason/exception to enter closed session at the time of voting, in that, the Board either provides: (1) the statutory worded reasons (exceptions) without the corresponding exception(s) designators (alphanumeric tag); (2) the statutory worded reasons (exceptions) and incorrect exception(s) designators (alphanumeric tag); or (3) the alphanumeric tag without the corresponding statutory worded reasons (exceptions). Pursuant to D.C. Official Code § 2-575(c)(1-2), a presiding officer of a public body's meeting must make a statement providing for closure, which includes citations from the OMA (D.C. Official Code § 2-575(c)(2)).

The justification for the dismissal of the OMA complaint and my *sua sponte* review of the ABC Board's failure to state the statutory reasons in full for closure of its meetings follow.

The Advisory Opinion begins with the facts, then a discussion of the OMA's Notice of meetings and Open meetings provisions and an examination of the issues. I conclude with a discussion of my enforcement authority under the OMA.

I. BACKGROUND

A. The Complaint

On October 28, 2025, you submitted the Complaint via email to OOG. Your Complaint, in part, states:

> Please conduct an investigation into this matter and mandate that the ABCA Board hold it[s] deliberations in a public forum.

[15] https://www.open-dc.gov/documents/oog-2024-003-oma-advisory-opinion-dc-zoning-commission.
[16] Final Rulemaking amendments to Chapter 104 (Office of Open Government) Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulation (DCMR), § 10411.6.
[17] D.C. Municipal Regulations Section 3-10407 – Public Body Request for Advisory Opinions.
[18] D.C. Official Code § 2-575(c)(2); D.C. Official Code § 2-576(5).

> The ABCA Board regularly does all of their deliberation behind closed doors during their hearings. So, when they go through the agenda for any particular case or meeting all they share publicly is their votes. They never share the legal authority or their deliberations which should be made public. The Open Government Office should investigate this practice by the ABCA Board and mandate that they hold their deliberative meetings in a public forum.[19]

B. Summary of the Complainant's October 29, 2025, email response to the OOG's Request for Clarification

Based on OOG's review of the Complaint, and two of the Board's meetings, OOG's staff clarified certain information with you. In response to the OOG's email inquiry dated October 29, 2025, you provided the following response on the same date.

> I am claiming that the ABCA Board regularly goes into executive session without giving good reasons. Then they do all of their deliberations behind closed doors. Then the only thing they do in public is their roll call votes with no legal explanations for their reasoning.[20]

The following is a summary of ABCA General Counsel's email response to the Complaint.

C. Summary of ABCA General Counsel's November 4, 2025, email response to the Complaint.

The OOG provided ABC Board Chairman Donovan Anderson and ABCA Office of General Counsel with a redacted (for personal identifiable information) copy of the Complaint, thereby availing them of the opportunity to respond to the Complaint.[21] General Counsel Jonathan Berman provided the following response (in part) on November 4, 2025.

> The agency asked that the investigation be closed without further action because the complaint is vague and fails to allege a violation.
>
> The complaint raises no specific incident where the Alcoholic Beverage and Cannabis Board (Board) improperly closed a hearing to the public or improperly went into closed executive session. Indeed, a review of the incident reveals no specific date or time when the alleged violation occurred.
>
> As you are aware, the Open Meetings Act allows the Board to close hearings to the public or hold closed executive sessions when appropriate. One of the primary functions of the Board is to enforce the District's alcohol and medical cannabis

[19] Email from [redacted] to Office of Open Government (OOG), on October 28, 2025.
[20] Email from [redacted] to Attorney Advisor Joan Lelma (OOG), on October 29, 2025.
[21] Email from Attorney Advisor Joan Lelma (OOG) to ABC Board Chairman Donovan Anderson and ABCA Legal, on October 30, 2025.

> laws. This role involves investigating alleged administrative and criminal violations, making decisions on whether to refer matters for prosecution and adjudicating administrative enforcement trials. The Board further holds trials to adjudicate disputes over the licensing of alcohol and medical cannabis facilities. In that vein, the Board is entitled to go into closed session under D.C. Official Code §§ 2-575(b)(4)(A) (attorney client privilege) and (b)(13) (quasi-judicial functions).
>
> … when the Board goes into a closed session, the Board routinely reads an [O]pen [M]eetings [A]ct disclaimer for the record to advise the public why it is going to closed session.[22]

D. Summary of the Office of Open Government's Investigation and Findings of Fact

The Complainant has not fully complied with 3 DCMR § 10400.8 to provide the date of the meeting that is the subject of the allegations, but considering the Complainant uses "regularly" to describe the alleged violations and "all" concerning the deliberations, OOG has examined the following seven (7) of ABC Board's open session meetings and four (4) closed sessions, with two closed session meetings voted for on the same days: November 19, 2025, and January 14, 2026. To determine whether the allegations are founded, OOG conducted its investigation of the Board's open and closed sessions meetings of September 17, 2025, November 19, 2025, January 14, 2026, and January 16, 2026. OOG investigated the following meetings at which the Board voted to enter closed session of each preceding respective closed session meetings; except for January 14, 2026, meeting closed session meetings were not examined. The latter closed session meeting is the exception because the Board voted on January 8, to enter closed session on January 14, and at the latter meeting the Board voted to enter closed session on January 16, 2026. The meetings at which the Board voted to enter closed session at its next planned meeting are September 10, 2025, November 5, 2025, January 8, 2026, and January 14, 2026.[23]

OOG selected those open meetings with the closed sessions because a member of OOG's staff attended the November 19, 2025, and January 16, 2026, meetings, live in part and the former is in close date proximity to the date of the Complaint, while the latter is sufficiently spaced to cover the "regular" alleged violation. The meetings were attended to investigate the allegations in the Complaint, and the attendance also fulfills OOG's frequent monitoring of public body meetings. The September 17, 2025, meeting was investigated because it is prior to the date of the Complaint, and should the Board be found in violation of the OMA, OOG would want to determine whether the Board was adhering to the District's opening meetings laws at an earlier time. This would be beneficial to determine if there are areas that need emphasizing or clarifying, should mandatory training be imposed because of the Director of Open Government's

[22] Email from General Counsel Jonathan Berman (ABCA) to Attorney Advisor Joan Lelma, on November 4, 2025.
[23] *See* Transcripts and meeting notices of the following meetings attached: September 17, 2025, November 19, 2025, January 14, 2026, and January 16, 2026; and September 10, 2025, November 5, 2025, and January 8, 2026. Also, accessible at https://abca.dc.gov/#gsc.tab=0.

findings. OOG also investigated the January 14, 2026, meeting with the Complainant's allegations which includes "regularly" and "all" in consideration; being close in time to the January 16, 2026, meeting it would provide insight and evidence to address the allegations. The following meetings were investigated because they are the meetings at which the Board voted to enter the closed sessions that were selected by OOG for investigation: September 10, 2025, November 5, 2025, January 8, 2026, and January 14, 2026.

1. *The ABC Board's Meeting on September 17, 2025.*

Concerning the ABC Board's September 17, 2025, meeting, the Board voted on September 10, 2025, to enter closed session on the former date.[24] OOG obtained the transcripts from ABCA's website and its General Counsel, accessed the Board's open session recordings via ABCA's website on its YouTube page, and obtained the September 17 closed session recording from ABCA's General Counsel in consultation with ABCA's Director.[25] OOG's staff listened to ABC Board's open session meeting recordings of September 10, 2025, and September 17, 2025, examined the corresponding transcripts, and listened to its closed session recording (statutorily inaccessible by the public) of September 17, 2025, and found that the statutory worded corresponding reasons provided by the Board in open session (September 10, motioned and voted on) to enter closed session accord with the subjects discussed in the closed session meeting on September 17, 2025. However, while on September 10, the Chairman provided the statutory worded reasons and stated after the vote to enter closed session at the September 17 meeting that the closed session would be held "pursuant to the Open Meetings Act," he failed to provide the exception(s) designators (alphanumeric tag) to open session from D.C. Official Code (OMA) to make a motion and vote to enter closed session. Instead, the Chairman stated that the motion to hold a closed session meeting was in accordance with "Title 3, Chapter 45, Office of Open Government."[26] The statutory worded reason for which a motion was made and voted on to enter closed session is as follows: "discussing and hearing reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations and seeking legal advice from our legal counsel on the Board's investigative agenda, legal agenda, and licensing agenda for September 17th."[27] The omitted alphanumeric citation would have been D.C. Official Code § § 2-575(b)(14) and 2-575(b)(4)(A), respectively.

OOG's investigation reveals that ABC Board's Notice/Disposition for September 17, 2025, has the statutory reasons for entering closed session based on the vote taken on September 10, 2025, to enter closed session on September 17, 2025. However, since the Board did not state the subjects (in full) to be discussed at the time of voting on September 10, 2025, and there are various described matters on its investigative, legal, and licensing agendas, it is not readily ascertainable which matters the Board intended to vote on at the September 17, 2025, meeting and which matters were voted on at the September 10, 2025, to enter closed session on September 17, 2025. The only determining factor is that all the closed session matters on the

[24] Transcript of Alcoholic Beverage and Cannabis Board September 10, 2025, meeting, pp. 35-36.
[25] *See* https://abca.dc.gov/#gsc.tab=0; https://www.youtube.com/channel/UCPed4rRT72JUCd7aQsqL3Uw, ABC Board's YouTube channel; https://www.youtube.com/watch?v=tsJOz8aZ8KI, September 17, 2025; https://www.youtube.com/watch?v=3_igETCZQyc, September 10, 2025.
[26] Transcript of Alcoholic Beverage and Cannabis Board September 10, 2025, meeting, pp. 35-36.
[27] Transcript of Alcoholic Beverage and Cannabis Board September 10, 2025, meeting, p. 35.

agendas have one or the other following statements concerning § 2- 575(b)(4)(A) and "deliberation," save one agenda. "This portion of the meeting will be closed … The Board's vote will be held in an open session, and the public is permitted to attend when an in-person hearing is held or watch virtually online."[28] Or "… may be closed … pursuant to § 2-575(b)(4)(A) … The Board's vote will be held in an open session, and the public is permitted to attend when an in-person hearing is held or watch virtually online."[29] The agenda of September 17, 2025, notice with the different closure statements is not futuristic as to votes nor uncertain regarding closure, but rather only the act of closure is futuristic, which suggests that closed session entry was already decided. The statement is as follows: "In accordance with the Open Meetings Act (D.C. Official Code § 2-571 *et. seq*.), this meeting will be closed."[30] This differentiation does not mean OOG typically regards the statement "this meeting will be closed" as future action as to the act of closure and not vote. Rather, the distinction is made in this instance because all the agendas have one or the other of the same preceding statement, except one. OOG's staff also notes that the statutory reasons for the close session, which is only futuristic as to closure and not votes, are stated in the alternative. The relevant portion of the statement is as follows: "this meeting will be closed 1) to plan, discuss or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct … pursuant to § 2-575(b)(14) or 2) to deliberate upon a decision in an adjudication action or proceeding … pursuant to § 2-575(b)(13)."[31] The Board's September 10, 2025, meeting notice posted on the ABCA's website reveals a similar practice.[32]

The statutory reasons for closure are stated in the alternative, which suggests that even though the agenda with the alternative closure statement is the only one with language that accords with a meeting for which vote for closure was previously taken, the alternative language does not accord with the previous decision of the September 10, 2025, open meeting vote. The motion was made and voted on "for the purpose of discussing and hearing reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations and seeking legal advice from our legal counsel on the Board's investigative agenda, legal agenda, and licensing agenda for September 17th."[33] The corresponding OMA exception(s) designators (alphanumeric tags) are § 2-575(b)(14) and § 2-575(b)(4). Only one of the statutory reasons is stated in the alternative on the Board's meeting notice of the agenda that is not uncertain regarding closure ("may") nor intention to vote ("will vote"). Also, OOG's investigation did not identify a report in open session of any official action taken by the Board in its September 17, 2025, closed session meeting.

2. *The ABC Board's Meeting on November 19, 2025.*

[28] Notice/Disposition of Alcoholic Beverage and Cannabis Board September 10, 2025, meeting, pp. 8-10; Notice/Disposition of Alcoholic Beverage and Cannabis Board September 17, 2025, meeting, pp. 7-8.

[29] Notice/Disposition of Alcoholic Beverage and Cannabis Board September 10, 2025, meeting, pp. 11-13, 15; Notice/Disposition of Alcoholic Beverage and Cannabis Board September 17, 2025, meeting, pp. 10-12.

[30] Ibid., 27.

[31] Ibid.

[32] Notice/Disposition of Alcoholic Beverage and Cannabis Board September 10, 2025, meeting, p. 34.

[33] Transcript of Alcoholic Beverage and Cannabis Board September 10, 2025, meeting, pp. 35-36.

Concerning ABC Board's November 19, 2025, meeting, the Board voted on November 5, 2025, to enter closed session on the former date.[34] OOG obtained the transcripts from ABCA's website and its General Counsel, accessed the Board's open session recordings via ABCA's website on its YouTube page, and obtained the November 19 closed session recording from ABCA's General Counsel in consultation with ABCA's Director.[35] OOG's staff listened to ABC Board's open session meeting recordings of November 5, 2025, and November 19, 2025, examined the corresponding transcripts, and listened to its closed session recording (statutorily inaccessible by the public) of November 19, 2025, and found that the statutory worded corresponding reasons provided by the Board in open session (motioned and voted on) to enter closed session accord with the subjects discussed in the closed session portion of the meeting. However, while on November 5, the Chairman provided the statutory worded reasons and stated after the vote to enter closed session at the November 19 meeting that the closed session would be held "in accordance with the Open Meetings Act," he failed to provide the exception(s) designators (alphanumeric tag) to open session from D.C. Official Code (OMA) to make a motion and vote to enter closed session. Instead, in addition to the "Open Meetings Act" identification after the vote, the Chairman stated prior to the motion that in accordance with "Title 3, Chapter 45, Office of Open Government," he moved for ABC Board to hold a closed meeting on November 19th.[36] The statutory worded reasons for which a motion was made and voted on to enter closed session are as follows: "To plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations, if disclosure to the public would harm the investigation;" and "seeking legal advice from (our) legal counsel."[37] The omitted alphanumeric citation would have been D.C. Official Code § § 2-575(b)(14) and 2-575(b)(4)(A), respectively. OOG notes that the Board stated the subjects to be discussed as on "the Board's investigative agenda, legal agenda, and licensing agenda."[38]

OOG's investigation reveals that ABC Board's Notice/Disposition for November 19, 2025, has one of the statutory reasons (D.C. Official Code § 2- 575(b)(4)(A)) for entering closed session based on the vote taken on November 5, 2025, to enter closed session on November 19, 2025. The statutory reason stated by the Chairman at the November 5 meeting, "To plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations, if disclosure to the public would harm the investigation," which is D.C. Official Code § 2-575(b)(14), is not on the November 19 and 5,

---

[34] *See* timestamped 7:38:07 for the vote to enter closed session on November 19, 2026, https://www.youtube.com/watch?v=atJY0KvAVz4; The vote is not located in the Show Cause Hearing Transcript of November 5, 2025.

[35] https://abca.dc.gov/#gsc.tab=0; https://www.youtube.com/channel/UCPed4rRT72JUCd7aQsqL3Uw, ABC Board's YouTube channel; https://www.youtube.com/watch?v=pXuhX8uX3rM, November 19, 2025; https://www.youtube.com/watch?v=atJY0KvAVz4, November 5, 2025.

[36] https://www.youtube.com/watch?v=atJY0KvAVz4, November 5, 2025, timestamped 7:38:07 for the vote to enter closed session on November 19, 2026; The vote is not located in the Show Cause Hearing Transcript of November 5, 2025.

[37] Ibid.

[38] https://www.youtube.com/watch?v=atJY0KvAVz4, November 5, 2025, *See* timestamped 7:38:07 for the vote to enter closed session on November 19, 2026; The vote is not located in the Show Cause Hearing Transcript of November 5, 2025.

2025, agendas.[39] The statutory reasons on the agendas are D.C. Official Code § 2- 575(b)(4)(A) and "deliberation," which is D.C. Official Code § 2-575(b)(13). Also, since the Board did not state the subjects (in full) to be discussed at the time of voting on November 5, 2025, and there are various described matters on its legal and licensing agendas, it is not readily ascertainable which matters the Board intended to vote on at the November 19, 2025, meeting and which matters were voted on at the November 5, 2025, meeting to enter closed session on November 19, 2025.

Unlike the agenda of the September 17, 2025, notice (with the closure statement that is not futuristic as to votes nor uncertain regarding closure, but rather only the act of closure is futuristic, which suggests that closed session entry was already decided), the Board's November 19, 2025, notice does not contain any information that suggests closed entry was decided at a prior meeting for any of the subjects on the agenda. Similar to the Board's September 10th and 17th notices, the November 19 and 5, agendas have one or the other following statements concerning § 2- 575(b)(4)(A) and "deliberation":

> "This portion of the meeting will be closed … The Board's vote will be held in an open session, and the public is permitted to attend when an in-person hearing is held or watch virtually online."[40] Or "… may be closed … pursuant to § 2-575(b)(4)(A) … The Board's vote will be held in an open session, and the public is permitted to attend when an in-person hearing is held or watch virtually online.[41]

However, the information does not demonstrate that the November 19, 2025, closed session meeting was properly noticed. OOG notes that D.C. Official Code § 2-575(b)(13), which addresses "deliberation" in closed session was not voted on at the November 5, 2025, meeting. The statutory reasons voted on were: "[t]o plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations, if disclosure to the public would harm the investigation;" and "seeking legal advice from (our) legal counsel." The omitted alphanumeric citation would have been D.C. Official Code § § 2-575(b)(14) and 2-575(b)(4)(A), respectively.

Concerning ABC Board's November 19, 2025, open session meeting at which the Board voted to enter closed session on the same day, OOG's staff listened to ABC Board's open session meeting recording of November 19, 2025, examined the corresponding transcript, and listened to its closed session recording of November 19, 2025. OOG found that the exception(s) designators (alphanumeric tags) provided by the Board in open session (motioned and voted on) to enter closed session accord with the subjects discussed in the closed session portion of the

[39] https://www.youtube.com/watch?v=atJY0KvAVz4, November 5, 2025, *See* timestamped 7:38:07 for the vote to enter closed session on November 19, 2026; The vote is not located in the Show Cause Hearing Transcript of November 5, 2025; Notice/Disposition of Alcoholic Beverage and Cannabis Board November 5, 2025; Notice/Disposition of Alcoholic Beverage and Cannabis Board November 19, 2025.
[40] Notice/Disposition of Alcoholic Beverage and Cannabis Board November 5, 2025, meeting, pp. 7-9; Notice/Disposition of Alcoholic Beverage and Cannabis Board November 19, 2025, meeting, pp. 6-10.
[41] Notice/Disposition of Alcoholic Beverage and Cannabis Board November 5, 2025, meeting, pp. 10, 12-15, 22-24; Notice/Disposition of Alcoholic Beverage and Cannabis Board November 19, 2025, meeting, pp. 12-15, 21, 23, 25.

meeting. However, while the Board provided the statutory reason/exception (worded and the alphanumeric) in full for entering closed session at the time of voting concerning one subject, D.C. Official Code Section 2-575(b)(4)(A),[42] the Board failed to provide the statutory worded reason for the second subject and only stated the exception designators (alphanumeric tag), "D.C. Official Code Section 2-575(b)(13)" along with "deliberating upon."[43] Also, OOG's investigation did not identify a report in open session of any official action taken by the Board in its November 19, 2025, closed session meetings.

3. *The ABC Board's Meeting on January 14, 2026.*

Concerning ABC Board's January 14, 2026, meeting, the Board voted on January 8, 2026, to enter closed session on the former date.[44] OOG obtained the transcripts from ABCA's website and its General Counsel, accessed the Board's open session recordings via ABCA's website on its YouTube page, and obtained the January 14 closed session recording from ABCA's General Counsel in consultation with ABCA's Director.[45] OOG's staff listened to ABC Board's open session meeting recordings of January 8, 2026, and January 14, 2026, examined the corresponding transcripts, and listened to its closed session recording (statutorily inaccessible by the public) of January 14, 2026, and found that the statutory worded reasons provided by the Board in open session (motioned and voted on) to enter closed session accord with the subjects discussed in the closed session portion of the meeting. However, while on January 8, the Chairman provided the statutory worded reasons and stated after the vote to enter closed session at the January 14 meeting that the closed session meeting would be held "pursuant to the Open Meetings Act," he failed to provide the exception(s) designators (alphanumeric tag) to open session from D.C. Official Code (OMA) to make a motion and vote to enter closed session. Instead, the Chairman stated that the motion to hold a closed session meeting was in accordance with "Title 3, Chapter 45, Office of Open Government."[46] The statutory worded reasons for which a motion was made and voted on to enter closed session are as follows: "discussing and hearing reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations and seeking legal advice from our legal counsel on the Board's investigative agenda, legal agenda, and licensing agenda for January 14th…"[47] The omitted alphanumeric citation would have been D.C. Official Code § § 2-575(b)(14) and 2-

[42] D.C. Official Code Section 2-575(b)(4)(A): "To consult with an attorney to obtain legal advice and to preserve the attorney-client privilege between an attorney and a public body, or to approve settlement agreements; provided, that, upon request, the public body may decide to waive the privilege."

[43] Transcript of Alcoholic Beverage and Cannabis Board November 19, 2025, meeting, pp. 98-99: The motion by the Chairman to enter closed session, in part, is as follows: "…seeking legal advice from our counsel on Case Number 25-CMP-00019, I'm sorry, 25-CMP-00010 and 25-CMP-000l0(a), Dirty Water, pursuant to D.C. Official Code Section 2-575 (b) (4) (a) of the Open Meetings Act, and deliberating upon Case Number 25-CMP-00010 and 25-CMP-000l0(a), Dirty Water, for seeking legal advice from our counsel on Case Number 25-CMP-00019, I'm sorry, 25-CMP-00010 and 25-CMP-000l0(a), Dirty Water, pursuant to D.C. Official Code Section 2-575 (b) (4) (a) of the Open Meetings Act, and deliberating upon Case Number 25-CMP-00010 and 25-CMP-000l0(a), Dirty Water, for the reasons cited in D.C. Official Code Section 2-575(b) (13) of the Open Meetings Act."

[44] Transcript of Alcoholic Beverage and Cannabis Board January 8, 2026, meeting, pp. 35-36.

[45] See https://abca.dc.gov/#gsc.tab=0; https://www.youtube.com/channel/UCPed4rRT72JUCd7aQsqL3Uw, ABC Board's YouTube channel; https://www.youtube.com/live/tiAqkj5ENTE, January 14, 2026; https://www.youtube.com/watch?v=GQYM5peuI64, January 8, 2026.

[46] Transcript of Alcoholic Beverage and Cannabis Board January 8, 2026, meeting, pp. 35-36.

[47] Ibid.

575(b)(4)(A), respectively. OOG notes that the Board stated the subjects to be discussed as on "the Board's investigative agenda, legal agenda, and licensing agenda," without more.[48]

OOG's investigation reveals that ABC Board's Notice/Disposition for January 14, 2026, has the statutory reasons for entering closed session based on the vote taken on January 8, 2026, to enter closed session on January 14, 2026. However, since the Board did not state the subjects (in full) to be discussed at the time of voting on January 8, 2026, and there are various described matters on its legal and licensing agendas, it is not readily ascertainable which matters the Board intended to vote on at the January 14, 2026, meeting and which matters were voted on at the January 8, 2026, to enter closed session on January 14, 2026. The only determining factor is that all the closed session matters on the agendas have one or the other following statements concerning § 2- 575(b)(4)(A), § 2-574(b)(4), and "deliberation," save one investigative portion of one agenda. "This portion of the meeting will be closed … The Board's vote will be held in an open session, and the public is permitted to attend when an in-person hearing is held or watch virtually online."[49] Or "… may be closed … pursuant to § 2-575(b)(4)(A) … and … The Board's vote will be held in an open session, and the public is permitted to attend."[50] The agenda of January 14, 2026, notice with the different closure statements is not futuristic as to votes nor uncertain regarding closure, but rather only the act of closure is futuristic, which suggests that closed session entry was already decided. The statement is as follows: "In accordance with the Open Meetings Act (D.C. Official Code § 2-571 *et. seq*.), this meeting will be closed."[51] This differentiation does not mean OOG typically regards the statement "this meeting will be closed" as future action as to the act of closure and not vote. Rather, the distinction is made in this instance because the January 8th and 14th agendas have one or the other of the same preceding statement, except one investigative portion of one agenda. OOG's staff also notes that the statutory reasons for the close session, which is only futuristic as to closure and not votes, are stated in the alternative. The relevant portion of the statement is as follows: "this meeting will be closed 1) to plan, discuss or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct … pursuant to § 2-575(b)(14) or 2) to deliberate upon a decision in an adjudication action or proceeding … pursuant to § 2-575(b)(13)."[52] The January 8, 2026, agenda has one statutory reason for closure (D.C. Official Code § 2-575(b)(4)(A)), which is futuristic as to vote and uncertain as it relates to closure.[53] Furthermore, the closure statements concerning some matters on the Board's January 14, 2026, agenda (which is futuristic for votes and closure) are incorrect; D.C. Official Code § 2-574(b) is provided, instead of D.C. Official Code § 2-575(b), or more appropriately, D.C. Official Code § 2-575(b)(4)(A).[54]

The statutory reasons for closure stated in the alternative suggests that even though the agenda with the alternative closure statement is the only one with language that accords with a meeting for which vote for closure was previously taken, the alternative language does not

[48] Transcript of Alcoholic Beverage and Cannabis Board January 8, 2026, meeting, p. 36.
[49] Notice/Disposition of Alcoholic Beverage and Cannabis Board January 14, 2026, meeting, pp. 7-8.
[50] Notice/Disposition of Alcoholic Beverage and Cannabis Board September 14, 2026, meeting, pp. 9-13; Notice/Disposition of Alcoholic Beverage and Cannabis Board January 8, 2026, meeting, p. 6.
[51] Notice/Disposition of Alcoholic Beverage and Cannabis Board September 14, 2026, meeting, p. 22.
[52] Ibid.
[53] Notice/Disposition of Alcoholic Beverage and Cannabis Board January 8, 2026, p. 6.
[54] Notice/Disposition of Alcoholic Beverage and Cannabis Board January 14, 2026, meeting, pp. 7-8.

accord with the previous decision of the January 8, 2026, open meeting vote.[55] The motion was made and voted on as follows: "discussing and hearing reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations and seeking legal advice from our legal counsel on the Board's investigative agenda, legal agenda, and licensing agenda for January 14th…"[56] The corresponding OMA exception(s) designators (alphanumeric tags) are § 2-575(b)(14) and § 2-575(b)(4), which were omitted. Only one of the statutory reasons voted on at the January 8th meeting is stated in the alternative on the Board's meeting notice of the agenda that is not uncertain regarding closure ("may") nor futuristic regarding vote ("will vote"); it is D.C. Official Code § 2-575(b)(14), and still the exception is stated in the alternative with D.C. Official Code § 2-575(b)(13).[57] Also, OOG's investigation did not identify a report in open session of any official action taken by the Board in closed session of the January 14, meeting, which was voted for on January 8, 2026.

Concerning ABC Board's January 16, 2026, meeting, the Board voted on January 14, 2026, to enter closed session on the former date.[58] OOG obtained the transcripts from ABCA's website and its General Counsel, accessed the Board's open session recordings via ABCA's website on its YouTube page, and obtained the January 16 closed session recording from ABCA's General Counsel in consultation with ABCA's Director.[59] OOG's staff listened to ABC Board's open session meeting recordings of January 14, 2026, and January 16, 2026, examined the corresponding transcripts, and listened to its closed session recording (statutorily inaccessible by the public) of January 16, 2026, and found that the statutory worded reasons provided by the Board in open session (motioned and voted on) to enter closed session accord with the subjects discussed in the closed session portion of the meeting. However, while on January 14, the Chairman provided the statutory worded reasons and stated after the vote to enter closed session at the January 16 meeting that the closed session meeting would be held "pursuant to the Open Meetings Act," he failed to provide the exception(s) designators (alphanumeric tag) to open session from D.C. Official Code (OMA) to make a motion and vote to enter closed session.[60] Instead, the Chairman stated that the motion to hold a closed session meeting was in accordance with "Title 3, Chapter 405, Office of Open Government."[61] The statutory worded reasons for which a motion was made and voted on to enter closed session are as follows: "discussing and hearing reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations and seeking legal advice from our legal counsel on the Board's investigative agenda, legal agenda, and licensing agenda for January 16th…"[62] The omitted alphanumeric citation would have been D.C. Official Code § § 2-575(b)(14) and 2-

[55] Notice/Disposition of Alcoholic Beverage and Cannabis Board September 14, 2026, meeting, p. 22.
[56] Transcript of Alcoholic Beverage and Cannabis Board January 8, 2026, meeting, pp. 35-36.
[57] Notice/Disposition of Alcoholic Beverage and Cannabis Board January 14, 2026, meeting, pp. 7-8; Transcript of Alcoholic Beverage and Cannabis Board January 8, 2026, meeting, pp. 35-36.
[58] Transcript of Alcoholic Beverage and Cannabis Board January 14, 2026, meeting, pp. 151-152.
[59] *See* https://abca.dc.gov/#gsc.tab=0; https://www.youtube.com/channel/UCPed4rRT72JUCd7aQsqL3Uw, ABC Board's YouTube channel; https://www.youtube.com/live/0HTyiuBjqX4, January 16, 2026; https://www.youtube.com/live/tiAqkj5ENTE, January 14, 2026.
[60] Transcript of Alcoholic Beverage and Cannabis Board January 14, 2026, meeting, pp. 151-152.
[61] Transcript of Alcoholic Beverage and Cannabis Board January 14, 2026, meeting, p. 151.
[62] Ibid.

575(b)(4)(A), respectively. OOG notes that the Board stated the subjects to be discussed as on "the Board's investigative agenda, legal agenda, and licensing agenda," without more.[63]

OOG's investigation reveals that ABC Board's Notice/Disposition for January 16, 2026, has one of the statutory reasons for entering closed session based on the vote taken on January 14, 2026, to enter closed session on January 16, 2026. However, since the Board did not state the subjects (in full) to be discussed at the time of voting on January 14, 2026, and there are various described matters on its legal and licensing agendas, it is not readily ascertainable which matters the Board intended to vote on at the January 16, 2026, meeting and which matters were voted on at the January 14, 2026, to enter closed session on January 16, 2026. The only determining factor is that all the closed session matters on the agendas have one or the other following statements concerning § 2- 575(b)(4)(A), § 2-574(b)(4), and "deliberation," save one investigative portion of one agenda. "This portion of the meeting will be closed … The Board's vote will be held in an open session, and the public is permitted to attend when an in-person hearing is held or watch virtually online."[64] Or "… may be closed … pursuant to § 2-575(b)(4)(A) … and … The Board's vote will be held in an open session, and the public is permitted to attend."[65]

The agenda of January 14, 2026, notice with the different closure statements is not futuristic as to votes nor uncertain regarding closure, but rather only the act of closure is futuristic, which suggests that closed session entry was already decided. The statement is as follows: "In accordance with the Open Meetings Act (D.C. Official Code § 2-571 *et. seq*.), this meeting will be closed."[66] This differentiation does not mean OOG typically regards the statement "this meeting will be closed" as future action as to the act of closure and not vote. Rather, the distinction is made in this instance because January 14th and 16th agendas have one or the other of the same preceding statement, except one investigative portion of one agenda. If the preceding language that informs that closed session was already decided was not used, it is clear from the dates at the top of investigative agenda, the Board intended to enter closed session on January 14, 2026, and the alternative exceptions on that portion of the agenda do not apply to the January 16, closed session meeting. OOG's staff also notes that the statutory reasons for the closed session, which is only futuristic as to closure and not votes, are stated in the alternative. This information from OOG's investigation is presented in the preceding concerning the January 8 vote and corresponding January 14, closed session. It is irrelevant to repeat it here because that portion of January 14, agenda does not pertain to the vote taken on the same date to enter closed session on January 16, 2026. However, it is noteworthy that the Board's January 16, agenda does not have a closed session portion of its agenda which demonstrates that closed session entry was already decided. Also, D.C. Official Code § 2-575(b)(14), one of the exceptions the Board voted on to enter closed session on January 16, is absent from the latter agenda. The Chairman stated at the January 14, meeting that the notice of the January 16, closed session meeting was "published in the D.C. Register on January 9."[67] However, OOG's staff has not located the published

[63] Transcript of Alcoholic Beverage and Cannabis Board January 14, 2026, meeting, p. 151.
[64] Notice/Disposition of Alcoholic Beverage and Cannabis Board January 16, 2026, meeting, p. 2; Notice/Disposition of Alcoholic Beverage and Cannabis Board January 14, 2026, meeting, pp. 7-8.
[65] Notice/Disposition of Alcoholic Beverage and Cannabis Board September 16, 2026, meeting, pp. 3, 4, 6; Notice/Disposition of Alcoholic Beverage and Cannabis Board September 14, 2026, meeting, pp. 9-13.
[66] Notice/Disposition of Alcoholic Beverage and Cannabis Board September 14, 2026, meeting, p. 22.
[67] Transcript of Alcoholic Beverage and Cannabis Board January 14, 2026, meeting, p. 151.

meeting notice with the information in the D.C. Register. The attached January 9, 2026, publication in the D.C. Register does not contain the January 16, 2026, closure of meeting. OOG staff notes that like the incorrect closure statements concerning some matters on the Board's January 14, 2026, agenda (which is futuristic for votes and closure), the Board's January 16, 2026, agenda has incorrect citation. D.C. Official Code § 2-574(b) is provided, instead of D.C. Official Code § 2-575(b), or more appropriately, D.C. Official Code § 2-575(b)(4)(A).[68] Also, OOG's staff did not locate in the Board's January 16, 2026, transcript nor hear from its recording any official action that was taken by the Board in closed session.

Concerning ABC Board's January 14, 2026, open session meeting at which the Board voted to enter closed session on the same day, OOG's staff listened to ABC Board's open session meeting recording of January 14, 2026, examined the corresponding transcript, and listened to its closed session recording of January 14, 2026.[69] OOG found that the exception(s) designators (alphanumeric tags) provided by the Board in open session (motioned and voted on) to enter closed session accord with the subjects discussed in the closed session portion of the meeting. However, while the Chairman provided the statutory reason/exception (worded and the alphanumeric) in full for entering closed session at the time of voting concerning one subject (D.C. Official Code Section 2-575(b)(4)(A), the Board failed to provide the statutory worded reason for the second subject and only stated the exception designators (alphanumeric tag), "D.C. Official Code Section 2-575(b)(13)" along with "deliberating upon."[70] The Chairman stated the subject as "Case No. 25-PRO-00082, Seta Oasis."[71] Also, the Board did not return to open session to report any official action taken in closed session. Rather, the Chairman stated as follows: "The Board will issue a decision in 90 days … So I'm going to close the record for the day."[72]

I now move to discuss the Complaint, commencing with the allegation that ABC Board members "regularly does all of their deliberation behind closed doors during their hearings" and that the "Board regularly goes into executive session without giving good reasons."[73] This is followed by a more expansive discussion on the sixteen (16) exceptions for entering closed or executive session with a focus on further addressing the clarification to the allegation that the "Board regularly goes into executive session without giving good reasons" and that "they do all of their deliberations behind closed doors."[74] The first discussion point (A) will cover Notice of meetings, Open meetings provisions in part, and whether the Complaint alleges a violation of the OMA, and the second discussion point (B) will address the latter (Open meetings) – sixteen (16) reasons for entering closed/executive session.

---

[68] Notice/Disposition of Alcoholic Beverage and Cannabis Board January 14, 2026, meeting, pp. 7-8; Notice/Disposition of Alcoholic Beverage and Cannabis Board January 16, 2026, meeting, p. 2.

[69] *See* https://www.youtube.com/live/tiAqkj5ENTE, January 14, 2026.

[70] Transcript of Alcoholic Beverage and Cannabis Board January 14, 2026, meeting, pp. 150-151: The motion by the Chairman to enter closed session, in part, is as follows: "… seeking legal advice from our counsel on Case No. 25-PRO-00082, Seta Oasis, pursuant to D.C. Official Code Section 2-575(b)(4)(a) of the Open Meetings Act, and deliberating upon Case No. 25-PRO-00082, Seta Oasis, for the reasons cited in D.C. Official Code Section 2-575(b)(13) of the Open Meetings Act."

[71] Ibid.

[72] Transcript of Alcoholic Beverage and Cannabis Board January 14, 2026, meeting, p. 151.

[73] Email from [redacted] to Office of Open Government (OOG), on October 28, 2025; Email from [redacted] to Attorney Advisor Joan Lelma (OOG), on October 29, 2025.

[74] Email from [redacted] to Attorney Advisor Joan Lelma (OOG), on October 29, 2025.

II. DISCUSSION

A. The OMA requires that when a portion of a public body's meeting will be closed, the meeting notice must include, if feasible, a statement of intent to close any portion of the meeting, including citation/(s) of the statutory reason/(s) for closure and a description of the matters to be discussed in closed session.

The OMA generally requires meetings of public bodies to be open to the public unless a statutory exception authorizes closure.[75] Its notice provisions require advance disclosure of the meeting's date, time, location, and planned agenda. When closure is anticipated, the notice must also include, if feasible, the intent to close, citations to the applicable exceptions, and a description of the matters to be discussed.[76] These notice obligations are distinct from the procedures for authorizing closure and the requirement that the actual discussion fall within a permissible exception. Those issues are addressed in Section B.

1. *OOG has the Authority to Conduct an OMA Investigation Despite Deficiencies in the Complaint.*

As a preliminary matter, ABCA's General Counsel argues that the complaint is insufficient because it does not identify a particular meeting at which the Board allegedly violated the OMA. The response states in part that "the complaint is too vague and fails to allege a violation."[77] The ABCA General Counsel also argues, "[t]he complaint raises no specific incident where the Alcoholic Beverage and Cannabis Board (Board) improperly closed a hearing to the public or improperly went into closed [or] executive session. Indeed, a review of the incident reveals no specific date or time when the alleged violation occurred."[78]

Pursuant to 3 DCMR § 10400.8 complaints must include the name of the public body against which the allegation(s) is made, the date of the meeting that is the subject of the allegation, and the specific provision(s) of the OMA that the complainant alleges the public body has violated. The Complaint against ABC Board has fully satisfied the first requirement of naming the public body but has not identified the date of a meeting(s) at which the Board violated the OMA. The Complaint alleges that the Board regularly deliberates in closed session and enters executive session without adequately explaining its reasons, but it does not identify specific meeting dates. The Complaint therefore omits information required by 3 DCMR § 10400.8(b). However, the omission does not resolve whether the Board's practices comply with the OMA. OOG's regulations authorize further inquiry and the initiation of an advisory opinion, including on the Director's own initiative.[79] OOG has thus examined a reasonable number of meetings (seven open and four closed sessions) to determine whether the allegations are founded. To evaluate the alleged recurring practice complaint, OOG reviewed the Board's agendas for

[75] D.C. Official Code § 2-575(a) - (b).
[76] D.C. Official Code § 2-576.
[77] Email from General Counsel Jonathan Berman (ABCA) to Attorney Advisor Joan Lelma, on November 4, 2025.
[78] Ibid.
[79] *See* 3 DCMR §§ 10401.1, 10407.1.

September 10 and 17, November 5 and 19, 2025, and January 8, 14, and 16, 2026. The findings in this section are limited to those records.

Thus, despite deficiencies in the Complaint, OOG proceeded under its own initiative, as authorized by its regulations. These regulations permit requests for additional information and initiation of an advisory opinion; they also expressly recognize opinions initiated by the Director.

2. *The Board's closed session notices for its November 19, 2025 meeting and the feasibility of including the actual justification for closure.*

All meetings properly constituted to conduct public business, as defined under the OMA,[80] unless specifically and legally exempted,[81] are presumed to be open to the public, and the public must receive advanced notice of the date, time, location and draft agenda.[82] Also, pursuant to D.C. Official Code § 2-576(1), the public must be given notice of the change of schedule of a meeting, as soon as possible, or at least forty-eight (48) hours or two (2) business days, whichever is greater, before a meeting. If one of the requirements of the notice is absent (date, time, location, and draft agenda) pursuant to D.C. Official Code § 2-576(5), a proper meeting notice has not been provided.

Since the allegation partly concerns the Notice requirement aspect of the draft agenda under the statute, I will discuss the same. The OMA requires the following to be done by a public body: "[i]f the meeting or any portion of the meeting is to be closed, the notice shall include, if feasible, a statement of intent to close the meeting or any portion of the meeting, including citations to the reason for closure under § 2-575(b), and a description of the matters to be discussed."[83] OOG's staff examined seven (7) of the Board's meeting agendas and found no outright violation of this subsection of the statute.[84] The Board's agendas stated that a portion of the meetings will be closed, cited the relevant reason(s) from the OMA for closing the meetings, and described the matters to be discussed in closed session.

However, based on OOG's investigation, the ABC Board failed to always state on its meeting agendas the applicable OMA citation in full. OOG's investigation also reveals that the Board does not always provide in full the relevant OMA reason/exception it intends to vote on to enter closed session of its meetings. The Board either provides: (1) the statutory worded reasons (exceptions) without the corresponding exception(s) designators (alphanumeric tag); (2) the statutory worded reasons (exceptions) and incorrect exception(s) designators (alphanumeric tag); or (3) the alphanumeric tag without the corresponding statutory worded reasons (exceptions).

According to OOG's review, the Board's agendas generally disclosed an intent to enter closed session and identified anticipated subjects and statutory grounds for closure. However, the review also identified instances in which the Board reproduced an exception's wording without

[80] D.C. Official Code § 2-574(1).
[81] D.C. Official Code § 2-575(b).
[82] D.C. Official Code § 2-576(5).
[83] Ibid..
[84] *See* the attached agenda for the meetings held on September 10, 2025, September 17, 2025, November 5,2025, November 19, 2025, January 8, 2026, January 14, 2026, and January 16, 2026.

its subsection citation, paired an exception's wording with an incorrect citation, or supplied a citation without reproducing the statutory language.

Pursuant to D.C. Official Code § 2-576(5), if feasible, the ABC Board must, in addition to a statement of intent to close its meeting or any portion of its meeting and description of the matters to be discussed, state citations to the reason for closure under § 2-575(b). The OMA requires citations to the applicable exceptions; it does not expressly require the notice to reproduce each exception verbatim. Accordingly, an agenda is not deficient merely because it provides a correct citation without quoting the statutory text. The notice must describe the matters to be discussed to be in compliance with the OMA. Conversely, reproducing an exception's wording does not necessarily resolve the omission of the required citation, and pairing that wording with an incorrect citation may leave the asserted basis for closure unclear. For each identified discrepancy, OOG determined what the notice stated, whether it accurately identified the intended exception and subject matter, and whether providing the omitted or corrected information was feasible. The existence of a discrepancy alone does not establish the same result in every instance.

Most notably, the November 19, 2025 meeting illustrates the need for this inquiry. According to the records described above, the Board voted on November 5 to close a portion of its November 19 meeting and identified the investigative exception in D.C. Official Code § 2-575(b)(14) and the attorney consultation exemption in D.C. Official Code §2-575(b)(4)(A). The November 19 meeting notice only identified § 2-575(b)(4)(A) and omitted subsection (b)(14). The Board Chairman's November 5 verbal announcement and subsequent Board vote establishes that the Board anticipated relying on the investigative exception before the November 19 meeting. The November 5 meeting agenda indicated that the Board will close to deliberate. The ABC Board actually sought advice of counsel on the matter instead of deliberating.

The ABC Board argues that given the nature of the ABC Board's docket, the omission is reasonable. The ABC Board Counsel's explanation that some matters become ready for consideration after the Board's usual agenda-publication date accounts for changes. OOG's investigation also revealed that based on the Board's statements, sometimes the prior votes taken for closed session will be on notices other than the meeting at which the vote was taken and the one at which the closed session will be held. This does not establish that the omission of § 2-575(b)(14) from the November 19, 2025 meeting notice was attributable to infeasibility. OOG's investigation did not reveal the actual circumstance that caused the omission. Agenda changes are evaluated in light of the notice requirement and its feasibility qualification. OOG cannot determine whether there is factual support to establish that including the information was infeasible in this instance. There is insufficient evidence to conclude that the Board violated the OMA by omitting § 2-575(b)(14) from its November 19, 2025 meeting notice.

3. *Discussion of the Complainant's reference to the absence of "good reasons" for closure.*

Further, the Complainant's reference to the absence of "good reasons" is understood as questioning whether the Board adequately identified and properly relied on statutory grounds for closure. The Complaint contains the allegation that the Board members "regularly does all of

their deliberation behind closed doors during their hearings" and that the Board "regularly goes into executive session without giving good reasons."[85] OOG's inquiry to resolve this issue is whether the stated exception applied to the actual discussion and whether the Board fulfilled the associated notice and closure requirements.

A public body's agenda addresses the written aspect of providing the reasons for entering closed/executive session. While a public body may modify its agenda after it has been published, the public body must not, in keeping with openness and transparency, discuss any matter in its closed meeting that is not on the agenda.[86] OOG takes notice that ABC Board's agenda does not always contain all the matters addressed in public session. The following is illustrative of the ABC Board's practice.

OOG's investigation reveals that ABC Board's Notice/Disposition for November 19, 2025, has one of the statutory reasons (D.C. Official Code § 2- 575(b)(4)(A)) for entering closed session based on the vote taken on November 5, 2025, to enter closed session on November 19, 2025. The statutory reason stated by the Chairman at the November 5 meeting, "[t]o plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations, if disclosure to the public would harm the investigation," which is D.C. Official Code § 2-575(b)(14) is not on the November 19 and 5, 2025, meeting agendas.[87] While OOG does not have enough evidence to find a violation of the OMA based on feasibility, when the notice and vote do not align it is not clear to the public what is occurring in closed session. Proper alignment would prepare the public more for what to expect at the Board's meetings, and as a practical matter, congruence between the agenda and matters addressed in public session might advance public confidence that such congruence also exists in closed session.

As discussed above, ABCA's General Counsel's explanation for such occurrences is that they are unavoidable based on when certain matters become ready for consideration. ABCA's General Counsel explained that "items added after Friday are generally not ready [for] consideration at the time but may become ready the following week and need to be taken up."[88] That explanation provides a possible reason for differences between a prior vote and a subsequent meeting notice. It does not establish, however, whether the investigative matter identified on November 5 remained scheduled for November 19, whether it was considered at a different meeting, or whether it was removed from consideration altogether.

In the future, the Board should ensure that each meeting notice identifies the anticipated grounds for closing that meeting and describes the matters to be discussed. When a matter is moved to another meeting, the Board should ensure that the notice for the meeting at which the closed discussion is anticipated contains the applicable information. If the Board cannot do so, it must have an adequate explanation of why doing so is not feasible.

---

[85] Email from [redacted] to Office of Open Government (OOG), on October 28, 2025.
[86] D.C. Official Code § 2-573; D.C. Official Code § 2-575.
[87] *See* timestamped 7:38:07 for the vote to enter closed session on November 19, 2026; The vote is not located in the Show Cause Hearing Transcript of November 5, 2025; Notice/Disposition of Alcoholic Beverage and Cannabis Board November 5, 2025; Notice/Disposition of Alcoholic Beverage and Cannabis Board November 19, 2025.
[88] Email from General Counsel Jonathan Berman (ABCA) to Attorney Advisor Joan Lelma, on January 27, 2026.

I, now move to discuss the more practical aspect of the Board entering closed session portion of its meetings which covers the following similarly clarified allegation. The "Board regularly goes into executive session without giving good reasons" and that "they do all of their deliberations behind closed doors."[89]

B. The OMA requires that a public body's meeting is open to the public, except in sixteen (16) circumstances provided by the statute for closed or executive sessions, and there must be an open session with a majority vote of the body's members present for entering closed session.

A public body does not have to provide "good reasons" (as you state in your Complaint) for entering closed session meetings, only what is statutorily required. However, based on the ABC Board's inconsistency in voting on the same statutory exceptions stated on the agenda to enter closed sessions and the nature of your allegations, OOG's staff has listened to four (4) of the Board's closed session recordings, in addition to seven (7) open meeting recordings and examined the transcripts for each open session to determine OMA compliance.[90]

OOG's investigation addressed two distinct questions: whether the Board followed the procedures required to enter closed session and whether the Board's closed session discussions concerned matters eligible for closure. The discussion that follows addresses each issue and concludes with a determination that the ABC Board conducted its public meetings properly in adherence with the OMA. The discussion also addresses the frequency of the ABC Board entering closed sessions and whether that activity implicates the OMA.

1. *The ABC Board Properly Adhered to the Procedure for Entering Into Closed Sessions and Discussed Matters Previously Noticed.*

The OMA requires public body meetings to be open to the public and closed or executive sessions are permitted under specific circumstances in the statute.[91] D.C. Official Code § 2-575(c)(1) states, "[b]efore a meeting or portion of a meeting may be closed, the public body shall meet in public session at which a majority of the members of the public body present vote in favor of closure." The statute requires that the presiding officer makes a statement providing the reason for the closure, including the relevant citation/(s) from D.C. Official Code § 2–575(b), and the subjects to be discussed. A copy of the roll call vote and the statement must be provided in writing and made available to the public.[92] I take notice that D.C. Official Code § 25–204.01 governs the Board's open meetings and has similar requirements to the Open Meetings Act,

[89] Email from [redacted] to Attorney Advisor Joan Lelma (OOG), on October 29, 2025.
[90] The four closed session recordings contain two closed session meetings voted for on the same days: November 19, 2025, and January 14, 2026.
[91] D.C. Official Code § 2-575.
[92] D.C. Official Code § 2-575(c).

which includes like worded mandate as the OMA's Rules of Construction for statutory exceptions to closed meetings to be construed narrowly.[93]

Pursuant to D.C. Official Code § 2–575(d), a public body that meets in closed session must not discuss or consider matters other than those matters listed under D.C. Official Code § 2–575(b). The latter is generally understood to be a statutory requirement for public bodies because publicly available recordings and meeting minutes do not allow the public to determine whether a closed session included discussion of matters beyond those listed on the agenda and approved by a vote in open session. This is because the OMA does not require a public body to make closed session records publicly available. The public may readily ascertain from the meeting minutes and recordings of a body's open session meeting(s), which pursuant to the OMA must be made available to public, if the requirement to vote to enter into closed session as part of a public body's meeting requirement was met and if a statement of the reason(s) for closure and the relevant citation of D.C. Official Code § 2–575(b) were provided.[94] 3 DCMR § 10411.6 also requires that "[u]pon conclusion of the closed session, the public body shall reconvene in open session to put on the record any official action taken during the closed session."[95] Review of this is also available to the public through the meeting minutes and/or the meeting recording.

Notwithstanding, the preceding being made available to the public, OOG examined the selected closed session meeting recordings to determine whether ABC Board discussed or considered matters other than those matters listed under D.C. Official Code § 2-575(b) for which the presiding officer gave the public notice of prior to closure.[96] That is, whether the Board discussed or considered matters outside the scope of the statutory reasons voted on to enter closed sessions. OOG's investigation reveals that ABC Board did not discuss or consider matters other than those matters listed under D.C. Official Code § 2-575(b) for which the presiding officer gave the public notice (that is, took a valid vote) prior to closure of the following meetings: September 17, 2025, November 19, 2025 (2 sessions), January 14, 2026 (2 sessions), and January 16, 2026. However, after listening to the open session recordings of the Board's meetings on the preceding dates (not considering the closed sessions that were voted for and conducted on November 19 and January 14) and examining each respective transcript, OOG's investigation reveals that the Board did not recite its vote from September 10, 2025, November 5, 2025, January 8, 2026, and January 14, 2026, before entering each respective closed session meetings - September 17, 2025, November 19, 2025 (1 session), January 14, 2026 (1 session), and January 16, 2026.

---

[93] D.C. Official Code § 2-573; D.C. Code § 25–204.01(a).
[94] D.C. Official Code § 2-578; Robert's Rules of Order Newly Revised (12th ed. 2020) § § 9:26 concerns "Rules Relating to the Secrecy of an Executive Session" and provides that matters are reported out that are necessary to carry out an action.
[95] Final Rulemaking amendments to Chapter 104 (Office of Open Government) Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulation (DCMR), accessible at https://www.open-dc.gov/documents/notice-final-rulemaking-chapter-104-office-open-government-0.
[96] D.C. Official Code § 2-575 (d); See Final Rulemaking amendments to Chapter 104 (Office of Open Government) Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulation (DCMR), § 10411.5, accessible at https://www.open-dc.gov/documents/notice-final-rulemaking-chapter-104-office-open-government-0.

Note that the ABC Board may vote at its open session meeting to enter closed/executive session at the next meeting, if it is unreasonable to do otherwise. OOG opined in Advisory Opinion OOG-0007_10.25.17_ AO as follows: "[T]he OMA mandates that a public body first meet in an open session where it must follow the OMA protocol for entering a closed/executive session … D.C. Official Code § 2-575(c) does not preclude a public body f[ro]m holding an entire meeting in closure, only that prior to doing so the public body first meet in an open session which it resumes after meeting in closure. Plainly stated, the closed session must be part of a single meeting."[97] I reiterated OOG's position in Advisory Opinion #OOG-2024-003 by referencing the preceding from Advisory Opinion OOG-0007_10.25.17_ AO and advise that DC Zoning Commission (the "Commission"), subject of the Complaints cited, does not hold one open session meeting for the year at which the Commission votes for repeated closed session meetings throughout the year.[98]

By virtue of D.C. Official Code § 25-204, ABC Board assumed "[a]ll duties and responsibilities in respect to the regulation of alcoholic beverage control establishments that previously have been given to the Alcoholic Beverage Control Division of the Department of Consumer and Regulatory Affairs." As such, the Board is authorized to conduct hearings related to certain violations, protest petitions, and settlement agreements. Also, pursuant to D.C. Official Code § 25–201, among ABC Board's responsibilities is to "[e]stablish procedures to receive and respond timely to complaints from any person alleging a violation of any provision of this title or regulations issued under this title."[99] The ABC Board is an adjudicatory body like the Commission and therefore may vote at an open session of its meeting to enter closed session at the next meeting held by the Board, if the Board cannot reasonably vote to enter a closed session of a meeting, and enter immediately.[100]

It follows that the ABC Board has not violated the OMA when its members voted on September 10, 2025, November 5, 2025, January 8, 2026, and January 14, 2026, to enter the Board's closed session meetings on each of the respective dates: September 17, 2025, November 19, 2025, January 14, 2026, and January 16, 2026. Neither has the Board violated the statute when its members voted on November 19, 2025, and January 14, 2026, to enter closed session on the same the same day, immediately after its open session meetings. The latter two dates for which the Board entered closed session on the same days of taking a valid vote for closed session are the meetings at which the Board deliberated in accordance with D.C. Official Code § 2-575(b)(13). OOG's investigation reveals that the Board conducted closed session discussion within the scope of the statutory reasons for which valid votes were taken in its November 19 and January 14 open session meetings.

2. *The ABC Board's Deliberations in Closed Session are Permissible Under the OMA when Properly Noticed.*

[97] https://www.open-dc.gov/documents/zoning-commission-letter-wherein-oog-opines-oma-does-not-authorize-public-body-meet-stand, OOG-0007_10.25.17_ AO.
[98] Ibid.; https://www.open-dc.gov/documents/oog-2024-003-oma-advisory-opinion-dc-zoning-commission, #OOG-2024-003.
[99] D.C. Official Code § 25–201(5).
[100] Ibid.

You state the following in your clarification to the Complaint. "… the ABCA Board regularly goes into executive session without giving good reasons. Then they do all of their deliberations behind closed doors."[101] Deliberating is itself public business. A gathering of a quorum to discuss or deliberate on public business constitutes a meeting, even if the members take no vote or final action.[102] However, under the OMA, a public body may deliberate privately on an adjudicatory decision if it properly invokes the applicable exception and follows the closure procedures. The OMA permits closed session deliberations on a decision in an adjudication action or proceeding when the body exercises quasi-judicial functions.[103] It does not authorize private deliberations on every matter a board considers. Thus, OOG viewed the Board's meetings to determine if its deliberations were eligible for closure, and if the Board properly authorized that closure.

To make this determination, OOG's staff viewed seven (7) of the Board's open session and four (4) closed session meetings (4 - contains two closed session meetings voted for on the same days: November 19, 2025, and January 14, 2026). OOG also examined the corresponding meeting notices (including agenda), and the open session transcripts of the meetings at which the Board's members voted to enter closed session on another day and the open sessions transcripts of the meetings on the day of its closed session meetings.[104] OOG found no violation of the OMA in its examination of these meetings.[105] However, the Board stated D.C. Official Code § 2-575(b)(13) and D.C. Official Code § 2-575(b)(14) in the alternative on its September 10, 2025, September 17, 2025, and January 14, 2026 meeting agendas. The former exception to open session is "[t]o deliberate upon a decision in an adjudication action or proceeding by a public body exercising quasi-judicial functions." The latter is "[t]o plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations, if disclosure to the public would harm the investigation."

OOG's investigation reveals that for the September 17, 2025, agenda with the alternative exceptions to open session, D.C. Official Code § 2-575(b)(14) was the statutory reason voted on at the September 10, 2025, meeting to enter closed session on September 17, 2025, and the Board's closed session discussion is within the scope of D.C. Official Code § 2-575(b)(14) and not D.C. Official Code § 2-575(b)(13). The Board also voted on D.C. Official Code § 2-575(b)(4)(A) at its September 10, 2025, meeting to enter closed session on September 17, 2025. OOG's investigation reveals that the Board discussed matters within the scope of the latter exception in its closed session. However, it was not on the Board's September 17, 2025, agenda.

---

[101] Email from [redacted] to Attorney Advisor Joan Lelma (OOG), on October 29, 2025.
[102] D.C. Official Code § 2-574(1)(A).
[103] D.C. Official Code Section 2-575(b)(13).
[104] The seven (7) open session meetings and transcripts are September 10, 2025, September 17, 2025, November 5, 2025, November 19, 2025, January 8, 2026, January 14, 2026, and January 16, 2026. The four (4) closed session recordings are from the Board's following meetings: September 17, 2025, November 19, 2025, January 14, 2026, and January 16, 2026.
[105] *See* the attached agenda for the meetings held on September 17, 2025, November 19, 2025, January 14, 2026, and January 16, 2026; Transcript of the Board's January 8, 2026, meeting – line 23 of p. 35, line 5 of p. 36; and the recordings of the respective meetings - https://www.youtube.com/watch?v=tsJOz8aZ8KI, https://www.youtube.com/watch?v=pXuhX8uX3rM, https://www.youtube.com/live/tiAqkj5ENTE, https://www.youtube.com/live/0HTyiuBjqX4.

OOG's investigation revealed that the Board did not deliberate in this closed meeting, even though it was noticed.

Concerning the January 14, 2026, agenda with similar alternative statutory exceptions, the same applies; in that the Board voted at the January 8, 2026, meeting was under D.C. Official Code § 2-575(b)(4)(A) and D.C. Official Code § 2-575(b)(14), and closed session matters were within the scope of the exceptions and not D.C. Official Code § 2-575(b)(13). The Board again did not deliberate in this closed meeting, even though it was noticed.

Concerning the closed session portions of November 19, 2025, and January 14, 2026, meetings for which the Board took valid votes on the same dates to enter closed session, the statutory reasons were D.C. Official Code § 2-575(b)(4)(A) and D.C. Official Code § 2-575(b)(13).[106] OOG investigation reveals that the Board closed session discussions were within the scope of the statutory reasons for which valid votes were taken by the Board on November 19 and January 14. The Board properly engaged in closed deliberations as it was exercising its quasi-judicial function.

3. *The ABC Board's Advance Vote Procedure Satisfied the Closed Meeting Notice Requirements*.

The Board's deliberations in closed session, to exercise its quasi-judicial function, were proper if the notice requirements were met. The closed session portions of November 19, 2025, and January 14, 2026, meetings included deliberations, so I will discuss the closed session notice compliance of those meetings.

Under D.C. Official Code § 2-575(c)(1), before a meeting or portion of a meeting may be closed, the public body must meet in public session, and a majority of the members present must vote in favor of closure. Section 2-575(c)(2) requires the presiding officer to identify the reasons for closure, cite the applicable statutory exceptions, and state the subjects to be discussed. The roll-call vote and statement must be made publicly available in writing. These requirements give the public a contemporaneous account of why the meeting is closed.[107]

---

[106] *See* https://www.youtube.com/live/tiAqkj5ENTE, January 14, 2026. Transcript of Alcoholic Beverage and Cannabis Board January 14, 2026, meeting, pp. 150-151: The motion by the Chairman to enter closed session, in part, is as follows: "… seeking legal advice from our counsel on Case No. 25-PRO-00082, Seta Oasis, pursuant to D.C. Official Code Section 2-575(b)(4)(a) of the Open Meetings Act, and deliberating upon Case No. 25-PRO-00082, Seta Oasis, for the reasons cited in D.C. Official Code Section 2-575(b)(13) of the Open Meetings Act." Transcript of Alcoholic Beverage and Cannabis Board November 19, 2025, meeting, pp. 98-99: The motion by the Chairman to enter closed session, in part, is as follows: "…seeking legal advice from our counsel on Case Number 25-CMP-00019, I'm sorry, 25-CMP-00010 and 25-CMP-000l0(a), Dirty Water, pursuant to D.C. Official Code Section 2-575 (b) (4) (a) of the Open Meetings Act, and deliberating upon Case Number 25-CMP-00010 and 25-CMP-000l0(a), Dirty Water, for seeking legal advice from our counsel on Case Number 25-CMP-00019, I'm sorry, 25-CMP-00010 and 25-CMP-000l0(a), Dirty Water, pursuant to D.C. Official Code Section 2-575 (b) (4) (a) of the Open Meetings Act, and deliberating upon Case Number 25-CMP-00010 and 25-CMP-000l0(a), Dirty Water, for the reasons cited in D.C. Official Code Section 2-575(b) (13) of the Open Meetings Act."

[107] D.C. Official Code § 2-575(a)–(d).

a. *OOG's Advisory Opinion and Clarification on Pre-Authorized Closed Sessions.*

In Advisory Opinion No. OOG-2024-003, issued May 8, 2025, OOG rejected the Zoning Commission's practice of holding an open meeting to approve a year's schedule of later stand-alone closed meetings.[108] The opinion reiterated OOG's interpretation that a closed session must form part of a single meeting and that public bodies must follow the closure protocol each time. It also expressed concern that broad annual descriptions could fail to identify the matters actually discussed at subsequent closed meetings.

The October 21, 2025, Commission compliance letter subsequently approved a more specific procedure developed in consultation with OOG. At the preceding hearing or meeting, the Commission would vote publicly to hold the identified closed session. Staff would post a notice listing its agenda items. Before proceeding into closure, the chair would reaffirm the earlier vote, provide the justification for closure, and ask whether any member objected to proceeding by unanimous consent. In the absence of an objection, the Commission would enter closed session. Afterward, the Commission would return to open session and report on the closed session before continuing its public agenda. The letter's description of the reaffirmation as occurring at the start of the closed session must be read together with its sequence of steps and its express statement that closed sessions must be preceded, without delay, by open sessions.

I have also issued Advisory Opinions with OOG's consistent guidance "that the OMA mandates that a public body meet[s] first in an open session where it must follow the OMA protocol for entering closed/executive session. The public body must then return to an open session to put on the record any official action that was taken during the closure if it is appropriate to do so."[109] OOG has also consistently advised that "D.C. Official Code § 2-575(c) does not preclude a public body from holding an entire meeting in closure, only that prior to doing so the public body first meet in an open session which it resumes after meeting in closure. Plainly stated, the closed session must be part of a single meeting."[110]

A public body's decision at a preceding public meeting to authorize an identified upcoming closed session was not, standing alone, inconsistent with the procedure OOG approved in its October 21, 2025, Zoning Commission compliance letter. That letter clarified Advisory Opinion No. OOG-2024-003 by accepting a specific advance vote coupled with public notice, reaffirmation of the vote and justification for closure, contemporaneous consent to proceed, and a return to open session. The letter therefore materially informs the evaluation of the ABC Board's practices.[111]

---

[108] OOG Advisory Opinion No. OOG-2024-003 (May 8, 2025), pp. 8–11 and 13–14; see also its discussion of the October 25, 2017, guidance at pp. 2–3. https://www.open-dc.gov/sites/default/files/OOG-2024-003_AO_ZC_05082025_Redacted.pdf.

[109] OOG-0007_10.25.17_AO; *See also* OOG-2024-003_AO.

[110] Ibid.

[111] Office of Open Government, Clarification of Advisory Opinion OOG-2024-003_AO and Review of Office of Zoning Compliance with the Closed Meeting Provisions of the D.C. Open Meetings Act (Oct. 21, 2025), pp. 1–4, especially pp. 2–3. https://www.open-dc.gov/sites/default/files/Zoning%20Commission%20Compliance%20Letter_Redacted.pdf.

b. *The ABC Board's Pre-Authorization: Voting for Closure and Closed Meetings for Deliberation.*

OOG's investigation revealed that the Board did not recite its vote from the September 10, 2025, November 5, 2025, January 8, 2026, and January 14, 2026, meetings (authorizing closing to deliberate) before its members entered closed session on September 17, 2025, November 19, 2025, January 14, 2026, and January 16, 2026. The Board's Chairman or designee must recite the Board's vote from the previous meeting before entering closed session in the meeting that follows immediately.[112] The ABC Board did not recite its earlier votes before the later closures. Under the procedure approved in the Commission compliance letter, reaffirmation was one of several required steps. However, the ABC Board chair did state the justification and subjects for closure, sought contemporaneous consent before excluding the public, and made the required written record available. While the Board did not follow the approved procedure it did provide advance notice and refrained from any improper substantive discussion in closure.

The Board's January 8 and January 14, 2026, meetings illustrate both the permissible advance planning and the remaining procedural question. On January 8 the Chairman identified the reasons for the proposed January 14 closure, cited the relevant statutory exceptions, described the subjects, and obtained a favorable vote. On January 14 the Board began with a publicly accessible recording and resumed open session after its closed proceedings. Those facts establish components of the process, but do not establish full compliance because the prior vote was not reaffirmed. The recording must show that the Board actually convened publicly and performed the contemporaneous closure procedure. The availability of an open session recording on the day the previously voted for closed session was held with a fully unattended slot before and during closed session does not prove those steps occurred. However, the Board's advance votes should not themselves be characterized as defective under the October 2025 approved procedure.

Respecting the concern that the Board did not complete the steps connecting the advance authorization to the particular closed sessions where the deliberations occurred, the Board did not deliberate based on advanced authorization (previous week vote), even though exceptions 13 and 14 were provided on the agendas in the alternative. The Board deliberated at the January 14 and November 19 closed session portion of the meetings that the members voted to enter on the same days.

The Board was in substantial compliance with the OMA and the departure from the compliance letter alone is not an OMA violation and the closure to deliberate was proper.

4. *The Open Meetings Act Does Not Restrict the Number of Closed Sessions.*

[112] https://www.open-dc.gov/documents/zoning-commission-letter-wherein-oog-opines-oma-does-not-authorize-public-body-meet-stand, OOG-0007_10.25.17_ AO; https://www.open-dc.gov/documents/oog-2024-003-oma-advisory-opinion-dc-zoning-commission, #OOG-2024-003; Final Rulemaking amendments to Chapter 104 (Office of Open Government) Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulation (DCMR) (DCMR), § 10411.6, accessible at https://www.open-dc.gov/documents/notice-final-rulemaking-chapter-104-office-open-government-0.

The OMA does not prescribe a numerical cap on closed sessions. Frequency alone therefore does not establish an OMA violation. Nevertheless, each closure must independently satisfy an applicable exception and the procedural requirements. While a pattern of frequent closures may justify examining whether the exceptions are being applied accurately; it does not establish that they are either proper or improper.

The ABC Board's alleged frequent closed session meetings do not have any bearing on whether the reasons for doing so are appropriate under the OMA. OOG's investigation found that the Board states its intention to enter closed session, cites the relevant subsection of the statute with the reason(s), and provides a description of the subject(s) to be discussed, so the Board's full closed session proceedings are permissible under the OMA.

One of the most notable and frequently applied by the ABC Board is "[t]o consult with an attorney to obtain legal advice and to preserve the attorney-client privilege between an attorney and a public body …"[113] Subparagraph (B) expressly prevents closing a meeting merely because the public body's attorney participates. Ordinary policy or administrative discussions do not become eligible for closure simply because counsel attends. The record must support the actual exception invoked. D.C. Official Code § 2-575(b)(4)(B) states, "[n]othing herein shall be construed to permit a public body to close a meeting that would otherwise be open merely because the attorney for the public body is a participant." This demonstrates the safeguards that are included in the OMA to prevent nefarious application of the OMA exemptions to avoid meeting publicly.

I now discuss whether a public body has the obligation to provide "legal explanations for [its] reasoning" concerning closed session matters.[114]

C. OOG advocates for openness and transparency. However, the OMA does not mandate that a public body provides the public with (report out) legal explanation or authority for its decisions or deliberations in closed/executive session.

The OMA requires that a public body cite the appropriate provision(s) of the statute for entering closed/executive session and provide in open session and on the meeting notice the subject(s) and a description of the matters to be discussed.[115] Also, 3 DCMR § 10411.6 requires that "Upon conclusion of the closed session, the public body shall reconvene in open session to put on the record any official action taken during the closed session."[116] However, this does not

[113] D.C. Official Code § 2-575(b)(4)(A).
[114] Email from [redacted] to Attorney Advisor Joan Lelma (OOG), on October 29, 2025.
[115] D.C. Official Code § 2-575(c), D.C. Official Code § 2-576(5). Robert's Rules of Order Newly Revised (12th ed. 2020) § 9:26 concerns "Rules Relating to the Secrecy of an Executive Session" and provides that matters are reported out that are necessary to carry out an action.
[116] Final Rulemaking amendments to Chapter 104 (Office of Open Government) Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulation (DCMR), accessible at https://www.open-dc.gov/documents/notice-final-rulemaking-chapter-104-office-open-government-0.

extend to a requirement for a public body to (report out) provide legal explanation or authority for its closed session deliberations or its decisions reached in closed session.

Pursuant to 3 DCMR § 10408.1, a public body, other than the District of Columbia Council, may conduct public meetings using the rules of parliamentary procedure in the latest edition of Robert's Rules of Order. The regulation states that "[a] Public Body shall be clear and simple in its procedures and avoid invoking the finer points of parliamentary procedure when doing so would obscure the issues and confuse the public."[117] To require reporting of any decision reached by the public body in closed/executive session does not amount to "invoking the finer points of parliamentary procedure."[118] On the other hand, neither does not reporting publicly the legal authority for the public body's decisions or deliberations in closed session amount to disregard for the regulation and the rules of parliamentary procedure.

If an attorney provided legal advice in closed/executive session to the public body, release of that information to the public would violate the attorney-client privilege, if not waived. This would defeat the whole or one of the purposes of conducting matters in the closed session portion of the meeting, which pursuant to D.C. Official Code § 2–575(b)(4)(A) is "[t]o consult with an attorney to obtain legal advice and to preserve the attorney-client privilege between an attorney and a public body." The District's open meetings rule for a public body "to put on the record any official action taken during the closed session" does not include making publicly available the legal authority for the public body's decisions or deliberations in closed session, save where the official action cannot be reported without stating the legal authority.[119]

III. CONCLUSION AND COMPLIANCE REMINDER

A. Conclusion

A public body is not required by the OMA to make publicly available legal explanations (legal authority) for its decision(s) ("reasoning") made in closed/executive session of its meetings.[120] Neither is a public body required by the District's open meetings laws to provide publicly its closed session deliberations. The statute requires that the presiding officer makes a statement providing the reason for the closure, including the relevant citation(s) from D.C. Official Code § 2–575(b), and the subjects to be discussed. There is also similar statutory mandate for like information to be provided on the planned agenda of the meeting notice – the public body to provide a description of the matters to be discussed.[121] DC Municipal Regulation instructs that public bodies may conduct their public meetings by using the rules of parliamentary procedure in the latest edition of Robert's Rules of Order, and the latter instructs that public bodies report publicly any decision reached in its closed session meetings, to the

[117] 3 DCMR § 10408.1.
[118] Ibid.
[119] Final Rulemaking amendments to Chapter 104 (Office of Open Government) Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulation (DCMR) § 10411.6, accessible at https://www.open-dc.gov/documents/notice-final-rulemaking-chapter-104-office-open-government-0.
[120] Email from [redacted] to Attorney Advisor Joan Lelma (OOG), on October 29, 2025.
[121] D.C. Official Code § 2-575(c); D.C. Official Code § 2-576(5).

extent necessary to carry out the action.[122] Also, the regulation requires that at the conclusion of the closed session, the public body must reconvene in open session to report publicly any official action taken during the closed session.[123] This does not create a legal obligation for public bodies to share "their deliberations," or "explanations for their reasoning"[124] concerning closed session matters. Furthermore, the reasons for a public body to enter closed/executive session are not legally determined by whether they are "good reasons"[125] in the opinion of the public but whether one or more of the sixteen (16) statutory reasons for entering closed session is met.

I find that Alcoholic Beverage and Cannabis Board has not violated the OMA by addressing statutorily permitted matters in closed or executive sessions and has not erred in citing the applicable provisions of the Open Meetings Act which has the reason(s) for entering closed/executive sessions. Further, the Board provided a brief description of the matters to be discussed on its agenda and stated the subject(s) to be discussed before entering closed sessions of its meetings. The Board has not discussed or considered matters in closed session other than those matters listed under D.C. Official Code § 2-575(b) for which the Chairman gave the public notice of prior to closure. However, I remind and caution the ABC Board to ensure that its Chairman or designee recite the vote of its members from the open session meeting to enter closed session at the meeting immediately after the last (that is, a meeting conducted on a separate day), before entering closed session.[126] The Board must on reconvening open session, report publicly any official action taken in closure.[127] Also, the Board must provide a general description of the specific subject matter to be discussed when taking votes to enter closed session and the statutory reasons must be stated in full.[128]

I am only empowered to seek injunctive and declaratory relief when certain OMA violations have occurred.[129] Because your Complaint does not establish a violation of the OMA, I am dismissing it for the reasons stated herein, and under the OOG's regulations.[130] Attached is a copy of your Complaint.[131]

---

[122] 3 DCMR § 10408.1; Robert's Rules of Order Newly Revised (12th ed. 2020) § 9:26 concerns "Rules Relating to the Secrecy of an Executive Session" and provides that matters are reported out that are necessary to carry out an action.

[123] Final Rulemaking amendments to Chapter 104 (Office of Open Government) Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulation (DCMR) § 10411.6, accessible at https://www.open-dc.gov/documents/notice-final-rulemaking-chapter-104-office-open-government-0.

[124] Email from [redacted] to Office of Open Government (OOG), on October 28; Email from [redacted] to Attorney Advisor Joan Lelma (OOG), on October 29, 2025.

[125] Email from [redacted] to Office of Open Government (OOG), on October 28; Email from [redacted] to Attorney Advisor Joan Lelma (OOG), on October 29, 2025.

[126] https://www.open-dc.gov/documents/oog-2024-003-oma-advisory-opinion-dc-zoning-commission.

[127] Final Rulemaking amendments to Chapter 104 (Office of Open Government) Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulation (DCMR) § 10411.6, accessible at https://www.open-dc.gov/documents/notice-final-rulemaking-chapter-104-office-open-government-0.

[128] Ibid., § 10411.4(a); D.C. Official Code § 2-575(c).

[129] *See* D.C. Official Code § 2-579.

[130] 3 D.C.M.R. § 10403.1 ("The Director [of Open Government] may dismiss a complaint on one or more of the following grounds: . . . (b) The action complained of does not violate the [OMA]).

[131] *See* 3 DCMR § 10403.2.

B. Compliance Reminder

The Board must immediately ensure its current meeting guidelines fully conform to the Open meetings (D.C. Official Code § 2-575) and Notice of meeting (D.C. Official Code § 2-576) provisions. Specifically, if the Board's members cannot reasonably vote to enter a closed session of a meeting immediately before entering into the closed session of the meeting, and the Board (as an adjudicatory body) instead takes the vote at its open session meeting that occurs directly before the date of the planned closed session, at the beginning of the closed session, the Board's Chairman or designee must recite the vote of the preceding meeting to enter into its closed session.[132] The Chairman's or designee's statement providing the reason for closure must include "a general description of the specific subject matter to be discussed."[133] Also, at the conclusion of ABC Board's closed session meetings, the Board must reconvene in open session and report publicly any official action taken during its closed session."[134]

ABC Board must state on its meeting agendas, when feasible, the full statutory reason/exceptions (alphanumeric tag and worded portion) of the OMA.[135] Furthermore, the meeting agendas published by the Board after its vote to enter closed session on a future date must not state the statutory reasons for entering closed session in the alternative; the reasons must be the same for which a valid vote was taken and recorded. The Board must publicly notice in accordance with the OMA the upcoming closed session meeting for which a valid vote was taken on the meeting notice for the day of the closed session meeting.[136] If the Chairman or designee states a different date on which the meeting will be noticed, the Board must publish a meeting notice accordingly and the requirement to do so on the notice with the same date as the closed session meeting remains.

Also, the Office of Open Government's 2026 OMA training schedule is published, and the training invites were sent to public body's chairpersons and vice chairpersons approximately two weeks before each scheduled training, with a reminder closer to the respective training sessions. Public body chairpersons and members must attend at least one of OOG's OMA training sessions annually. The staff of public bodies are encouraged to attend the trainings, and OOG's training coordinator Anthony J Scerbo, Attorney Advisor, may be contacted for further training information at anthony.scerbo1@dc.gov. If you have any questions or concerns about this advisory opinion, please contact Attorney Advisor Joan Lelma at joan.lelma@dc.gov.

Lastly, pursuant to 3 DCMR § 10407.5, "any person aggrieved by an Advisory Opinion issued by the Director on his or her own initiative may appeal the Advisory Opinion to the

---

[132] https://www.open-dc.gov/documents/oog-2024-003-oma-advisory-opinion-dc-zoning-commission.
[133] D.C. Official Code § 2-575(c)(2); Final Rulemaking amendments to Chapter 104 (Office of Open Government) Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulation (DCMR), § 10411.4(a).
[134] Final Rulemaking amendments to Chapter 104 (Office of Open Government) Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulation (DCMR) § 10411.6, accessible at https://www.open-dc.gov/documents/notice-final-rulemaking-chapter-104-office-open-government-0; Robert's Rules of Order Newly Revised (12th ed. 2020) § 9:26 concerns "Rules Relating to the Secrecy of an Executive Session" and provides that matters are reported out that are necessary to carry out an action.
[135] *See* D.C. Official Code § 2-576(5).
[136] *See* D.C. Official Code § 2-576.

Board[137] for its consideration." If you have any questions or concerns about this Advisory Opinion, please contact Attorney Advisor Joan Lelma at joan.lelma@dc.gov.

Sincerely,



Niquelle M. Allen, Esq.
Director, Office of Open Government
Board of Ethics and Government Accountability

[137] Board of Ethics and Government Accountability