



**BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY
GOVERNMENT OF THE DISTRICT OF COLUMBIA**



October 21, 2025

VIA ELECTRONIC MAIL



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Anthony J. Hood, Chair
District of Columbia Zoning Commission
441 4th Street, NW, Suite 200S
Washington, DC 20001
dcoz@dc.gov

RE: 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

Dear [REDACTED]:

On May 8, 2025, I issued Advisory Opinion OOG-2024-003 (“AO” or “advisory opinion”), pursuant to 3 DCMR § 10400, *et seq.*, and concluded that the District of Columbia Zoning Commission’s (Commission) practice of holding stand-alone closed sessions violated the Open Meetings Act (OMA) because its practice provided inadequate notice of the Commission’s closed meetings and was inconsistent with the protocol that public bodies must follow to lawfully enter closed/executive sessions as set forth in D.C. Official Code § 2-575(c).

After receiving notice of the complaint, the Commission has both responded to the complaint, and more importantly, collaborated with this office to rectify this inconsistency, and has, to my satisfaction, fully done so. The purpose of this letter is to provide an update on the Office of Open Government’s (OOG) efforts to ensure that the Commission operates in compliance with the OMA. First, the letter will provide an update on the compliance measures outlined in the advisory opinion. Second, the letter will address the recent efforts made by the Office of Zoning (OZ), specifically the Commission, to bring its closed meeting practices into compliance with the OMA. Third, the letter will clarify the intent behind certain hypothetical questions posed in that May 8th advisory opinion.

Update on OMA Compliance Measures

The AO required the Commission Chair, its legal counsel, secretary to the Commission and members of the Commission to attend an Open Meetings Act training within 90 days of the issuance of the advisory opinion. To comply with this directive, the Commission participated in a training session on the OMA conducted by OOG on September 8, 2025. This training provided an overview of the OMA and included instruction specific to the closed session matter at issue. The Commission has fully complied with the AO directive.

Review of Office of Zoning OMA Compliance Efforts

Since issuing the advisory opinion, OOG has worked collaboratively with the Office of Zoning to bring the Zoning Commission into full compliance with the OMA. In addition to receiving training, after consultation with OOG, the Commission has adopted a new procedure for entering into closed/executive sessions, which includes the following steps:

1. **Advance Vote in Open Session:** At the hearing or meeting prior to the date of a closed session, Chairperson Hood will read a script (provided by OOG) for the Zoning Commission to vote in public to hold a closed session.
2. **Public Notice:** Office of Zoning staff will post a notice on the DCOZ website and public bulletin board listing the agenda items for the closed meeting.
3. **Closed Meeting Procedure:** At the start of the closed session,¹ Chairperson Hood will read a second script (also provided by OOG) reaffirming the prior vote and providing the justification for closure. The Chairperson will then ask if there is any objection to entering into closed session by unanimous consent. In the absence of any objection, the Commission will then enter into closed session.
4. **Open Session Update:** Upon returning to open session, under “Preliminary Matters²”, Chairperson Hood will then report: “At 3:15 p.m. today, the Commission entered into a Closed Meeting Session for the purpose of obtaining legal advice from counsel. While discussions were held, there were no decisions made. Upon conclusion of the Closed Session, the Commission immediately entered this Open Meeting.”
5. **Continuation of Agenda:** The Commission then proceeds with the rest of the open session matters listed on their agenda.

I believe this new procedure meaningfully addresses the concerns raised in the advisory opinion and the related complaint. It ensures that closed sessions are properly noticed, preceded by open session votes, and clearly contextualized for the public. These steps reflect the Commission’s commitment to transparency and accountability.

Clarification of Hypothetical Questions

After the publication of the May 8th advisory opinion, the Commission expressed concern about certain language within the opinion which, from their perspective, implied willful noncompliance with the OMA in bad faith. This was not OOG’s intent. Instead, the intention was to provide examples illustrating the impact of closed sessions that are improperly noticed. To that

¹ Typically held at 3:15 pm prior to the Commission’s regularly scheduled Public Meeting

² Note that the Commission will add an agenda item as follows: “A. Update re: Closed Meeting Session (if entered into)”.

end, the advisory opinion included a series of hypothetical scenarios³ intended to illustrate how the Commission's prior closed meeting practices – such as the detachment of their closed sessions from the open session votes authorizing them, and the absence of updated or amended notices – *might* hinder the ability of the public or a reviewing authority to understand and evaluate the propriety of closed session discussions. They also reflected OOG's concerns about whether the statutory requirements for closed sessions were being met in both form and substance.

These questions were not intended to suggest definitive findings of willful noncompliance or to suggest that the Commission had acted in bad faith. Rather, the illustrations were posed to highlight potential areas of concern based on the absence of publicly available information and the Commission's previous scheduling practices. They were further intended to emphasize the importance of transparency, specificity in meeting notices, and the statutory requirement that closed sessions be preceded, without delay, by open sessions.

During OOG's discussions with the OZ, the Commission expressed concerns regarding the hypothetical scenarios, including:

1. That the opinion appeared to speculate about whether the Commission was discussing non-agenda items in closed session;
2. That it questioned the Commission's ability to predict its agenda a year in advance;
3. That it suggested the Commission may have made determinations absent public input;
4. And that it implied the Commission resumes discussions from prior meetings without proper notice.

These concerns are appreciated. OOG does not speculate about compliance; it relies on observable facts and documentation. Thus, as stated above, OOG's intent was not to make factual findings of noncompliance on the specific points raised by the hypotheticals, but rather to underscore the potential risks involving public *perception* of transparency – or, rather, lack thereof, which may be associated with long-term scheduling of closed sessions which are separate from the open session votes which authorize them. I note that the Commission maintains that its notices, which indicated that the closed sessions were to confer with counsel, were a full and accurate reflection of the business the Commission conducted in the closed sessions that were the subject of your complaint. Our office has found no evidence to contradict the Commission's representation of fact.

³ See pages 9-10 of Advisory Opinion, OOG-2024-003, which can be found at: https://www.open-dc.gov/sites/default/files/OOG-2024-003_AO_ZC_05082025_Redacted.pdf

Conclusion

OOG appreciates the Office of Zoning's and the Commission's responsiveness and proactive efforts to align their practices with the requirements of the OMA. We now consider this matter resolved and closed.

If you have any further concerns, please let us know. OOG remains available to provide further guidance on the OMA's requirements as needed.

Sincerely,

A handwritten signature in cursive script that reads "Niquelle Allen". The signature is written in dark ink and is positioned above a horizontal line.

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