

BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY
OFFICE OF OPEN GOVERNMENT



November 1, 2017

VIA ELECTRONIC MAIL

Anthony J. Hood, Chairman
Zoning Commission
441 4th Street, NW, Suite 200 South
Washington, DC 20001
anthony.hood@dbc.dc.gov

RE: #OMA OOG-007__10.25.17_ AO

Dear Chairman Hood:

This correspondence is the result of an Open Meetings Act (OMA) issue which the Office of Open Government (OOG) addresses in the above captioned October 25, 2017, binding opinion to the Board of Zoning Adjustment (BZA). Specifically, whether the OMA authorizes a public body to meet in a stand-alone closed/executive session distinct from, and unrelated to, an open meeting; and whether a public body must first adjourn an open meeting to meet in a closed/executive session that is part of a single meeting. The OOG's legal opinion is that the OMA mandates that a public body first meet in an open session where it must follow the OMA's protocol for entering a 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. 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 must 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. A link to the opinion is below for your review.¹

The OOG's recent review of meetings published on the Zoning Commission's website and the OOG central meeting calendar reveal that the Zoning Commission is following the BZA's practice of meeting in stand-alone closed/executive sessions. These sessions began as early as May 2016 and continue through October 2017. Therefore, the OOG's recommendations in the opinion for the BZA to come into compliance with the OMA apply to the Zoning Commission as well. The recommendations are that the Zoning Commission: (1) immediately cease its current practice of holding stand-alone closed meetings; (2) cease noticing any meeting as closed to the

¹ You may view the opinion at <https://www.open-dc.gov/documents/oog-007102517ao>

public; (3) strictly adhere to the protocol for entering closed/executive meetings found in D.C. Official Code § 2-575(c), as those provisions have been interpreted by the OOG; and (4) for the Office of Zoning's Executive Director, its legal counsel, Secretary to the Zoning Commission, if any, and members of the Zoning Commission to attend an OMA training within 90 days from the date of receipt of this correspondence. Please do not hesitate to contact me with any questions.

Sincerely,



TRACI L.HUGHES, ESQ. Director,
Director, Office of Open Government
Board of Ethics and Government Accountability

cc: Sara Bardin,
Director, Office of Zoning