



# Mayors' Council of Guam

*Korosehelon Mahot Guåhan*

**FILE COPY**

2/21/22  
2/18/22

February 18, 2022

TO: Attorney General

FROM: Executive Director, Mayors' Council of Guam

SUBJECT: Request for Legal Opinion

RE: Public Law 36-34 and the Open Government Law

*[Handwritten signature]*  
2/18/22

The enactment of Bill 102-36(COR), now P.L. 36-34 has become an unfunded mandate placed upon the entire Government of Guam and we seek the opinion of the Office of the Attorney on questions of concern to us.

**DISCUSSION:**

The Open Government Law defines in Section 8104, 5 GCA, Chapter 8 (b) *Meeting* means the convening of a governing body of a public agency for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter.

**QUESTION:**

Do meetings of the Mayors' Council of Guam that does not require a quorum have to be publicly noticed as mandated by Section 8104, 5GCA, Chapter 8 (5)? Examples of these meetings are Committees set up for seasonal events such as Liberation festivities, Easter, Halloween, and the like. If these meetings do not require a quorum but actions/decisions are made by a vote of those present, would these meetings fall under Section 8104, 5GCA, Chapter 8?

Do Public Hearings conducted by individual mayor's offices but do not require any action or decision to be made but only for the purpose of accepting and/or hearing public input have to be publicly noticed as mandated by Section 8104, 5GCA, Chapter 8 (5)?

**DISCUSSION:**

Section 40124, 5GCA, Chapter 40 established a Municipal Planning Council in every district on Guam. Section 40128, 5GCA, Chapter 40 (h) The Municipal Planning Council shall act as the body politic with the power to make its own rules, establish committees, hold hearings, and to prepare, pass, and adopt resolutions.

**RECEIVED**

FEB 18 2022  
@ 11:45 AM

Office of the Attorney General of Guam

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**QUESTION:**

Is the Open Government Law applicable to the meetings of the Municipal Planning Council? What sections of the Open Government Law apply?

**DISCUSSION:**

The Open Government Law defines under Section 8104, 5GCA (5) , Chapter 8 (A) Public Notice, as used in this Chapter, means a publication by newspaper of general circulation or by radio or television which is reasonably calculated to provide notice of the facts it announces to the public at large, *and* by electronic publication on the Guam Public Notice Website.

**QUESTION:**

Does this definition mean that our Public Notices be in either a newspaper or radio or television ad **and** (emphasis added) by electronic publication on the Guam Public Notice Website to be compliant with the Open Government Law?

**DISCUSSION:**

Section 8107, 5GCA, Chapter 8 requires a public agency to give five (5) working days public notice, and a second public notice at least forty-eight (48) hours prior to the start of the meeting.

**QUESTION:**

Does the forty-eight (48) hour notice have to be placed on a working day as well if the meeting is scheduled on a Monday or Tuesday?

**DISCUSSION:**

Section 8107, 5GCA , Chapter 8 also requires agencies to comply with the Title II of the American Disabilities Act (ADA) for effective communication for people with disabilities and include information in the notice that individuals requiring special accommodations, auxiliary aids or services shall contact and submit their request to the designated agency.

**QUESTION:**

Do our meeting places such as community centers or senior citizen centers have to be equipped with auxiliary aids or capable of providing special accommodations, as these are the locations where Municipal Planning Council meetings, Public Hearings and Town Hall meetings are held? What constitutes a "special accommodations"? Are we non-compliant if these facilities do not have the capability to provide such accommodations or auxiliary aids?



***DISCUSSION:***

There are instances where a Public Hearing is mandated to be held at a facility or jurisdiction under the mayor's control to comply with an applicant's request for zone change or variance or as part of an application package to be submitted to a decision making authority. The hearing is being conducted by the Office of the Mayor but the hearing is a requirement of another agency. The mayor's office is just a conduit to complete the application process.

***QUESTION:***

Whose responsibility is it to give Public Notice for the meeting or hearing? Is the agency/department that requires the hearing responsible for giving notice at their expense? Is it the applicant? Is it the mayor of the district affected by the application?

While we have raised several areas of concern and questions, we appreciate your timely response to these questions so we may act accordingly and come into compliance of the Open Government Law and P.L. 36-34.

*Si Yu'os ma'åse'*

cc. File/Chrono

