

Memorandum • Government of the District of Columbia

TO: Martin K. Schaller
Executive Secretary, D.C.

Department, Corporation Counsel
Agency, Office: LCD: BFG: 1s
VAA80301
L&O 78-124

FROM: Robert E. McCally *REM*
Deputy Corporation Counsel
Legal Counsel Division

Date: August 4, 1978

SUBJECT: Whether an Advisory Neighborhood Commission (ANC)
Commissioner must pay a license fee for a commission
as a notary public.

This is in reply to your memorandum of July II, 1978, in which you request the views of this Office as to whether an ANC Commissioner may be regarded as "in the service of the ... District of Columbia Government" for purposes of waiving the payment of the \$10 license fee required for appointment as a notary public.

Section 1-501 of the District of Columbia Code provides in pertinent part:

"•. Each notary public before obtaining his commission, and for each renewal thereof, shall pay to the Collector of Taxes of the District of Columbia a license fee of \$10: Provided, That no license fee shall be collected from any notary public in the service of the United States Government or the District of Columbia Government whose notarial duties are confined solely to Government official business: And provided further, That no notary fee shall be collected at any time by a notary public who is exempted from the payment of the license fee..•"

There are therefore three requirements which must be met to qualify for a commission as a notary public without payment of the license fee:

1. the applicant must be in the service of the United States or District Governments;

2. the notarial duties must be limited to official Government business; and
3. the notary public so commissioned is not, at any time, authorized to change a notarial fee.

This Office, in an opinion issued on July 19, 1977, (letter to Mr. James Slicer, ANC 2A06) determined that "the ANCs are characterized by indicia which are common to elements of the District Government..." and concurred in the conclusion of the District of Columbia Auditor that "ANCs are units of the District Government" (Memorandum, D.C. Auditor, January 5, 1977, "Tax Status of ANCs"). In this opinion, the Corporation Counsel further concluded that ANC Commissioners, as a result of their government status, are entitled to legal counsel and representation by this Office. Thus, an ANC Commissioner satisfies the first requirement for notarial commission without payment of the license fee, since when conducting ANC business, the Commissioner is "in the service of the District of Columbia".

ANC 4D is preparing to offer a program of free notary services to senior citizens in that ANC area. The second requirement for notarial commission without license fee--that the notarial duties would be limited to official Government business--would necessarily limit the permissible scope of the Commissioners' notary public duties to notarizing documents in which the District Government was directly involved. The Commissioners would not be authorized to notarize private documents nor could they use their commissions for any purpose outside of the ANC.

The proposed notary service for senior citizens would thus be limited to notarization of District Government documents for which no fee is charged. The Commissioners, of course, are eligible for a regular appointment (for which the fee would be charged), and with such authority, could notarize all documents without charge.

I conclude, therefore, that the ANC 4D Commissioners who have applied for their notary public commissions may be granted such commissions, without license fee, as long as their notarial activities are conducted in a manner consistent with the three requirements discussed above. In addition, such notarial commission would be valid only for the period during which the individual ANC Commissioner was in office. Upon leaving office, that individual would have to surrender his commission.

REM