

# FILE

## Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL

DISTRICT BUILDING

WASHINGTON, D. C. 20004



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February 20, 1990

Maria Tyler  
Commissioner, ANC2A03  
949 25th Street, N.W.  
Washington, D.C. 20037

Dear Commissioner Tyler:

This is in reply to your January 19, 1990 letter to Dwight S. Cropp concerning the procedures of the Advisory Neighborhood Commission (ANC) of which you are a member.

In your letter you seek advice concerning four matters: (1) whether positions taken by the ANC on public issues affecting the residents of the ANC must be taken at an ANC meeting which is open to the public; (2) whether such positions must be communicated to all the commissioners of the ANC; (3) whether the positions of the ANC must incorporate the views of the residents of the ANC; and (4) what remedies you have to protect the rights of your constituents.

As regards the first question, the law provides that when an ANC adopts an official position on a public issue affecting the residents of the ANC, it must do so at a properly noticed public meeting. See D.C. Code §§ 1-261(d), 1-262(c) and (g), and 1-1504(a) (1987). See also Article V, Section 1 of the ANC 2A Rules of Procedure and Bylaws.

As regards the second question, the law provides that "[t]he Commissions shall establish such mechanisms as will ensure the broadest dissemination of information with respect to the Commission meetings, positions and actions." D.C. Code § 1-262(b) (1987) (To the same effect is Section 8 of Article V of ANC 2A's Rules of Procedure and Bylaws.) While the law does provide some specific guidance regarding the dissemination of information regarding the scheduling of public meetings (see D.C. Code § 1-262(c) (1987)), it is silent regarding the "mechanisms" by which ANCs should carry out the requirement that they disseminate information relating to ANC "positions and actions." Thus, what mechanisms an ANC uses to disseminate information relating to its positions and actions is a matter committed to the discretion of the ANC.

If a commissioner attends a public meeting, the commissioner would ordinarily know first hand what positions and actions were taken by the Commission at that meeting. And if a commissioner were absent from a public meeting, copies of the minutes of that meeting and copies of any written positions that were adopted at that meeting or oral positions that were later reduced to writing (e.g., written recommendations sent to an agency) would normally be on file in the Commission's office and available for inspection by a commissioner or a member of the public.

As regards your third question, D.C. Code § 1-262(a) (1987) provides in part that "[r]esident views shall be incorporated in positions taken by the Commissions." This means, for example, that when ANC 2A drafts written recommendations on a matter pending before a District agency, the views expressed by the residents of ANC 2A who attended the public meeting at which ANC 2A's position was adopted and the views of residents who otherwise timely communicated their opinions to ANC 2A should be summarized in the written recommendations statement. (And this applies even when the views of the residents are in conflict.) This incorporation of views requirement does not, however, mean that the commissioners are legally bound to adopt any particular view when they vote on a final ANC position on an issue.--Stated otherwise, the commissioners are required to listen to their constituents' views and consider them, but once having done that, they may exercise their own best Judgment on what the official position of the ANC will be on a particular issue.

As regards your last question, you may seek to protect the rights of your constituents by writing letters such as your January 4, 1990 letter to the Chairman of the National Capital Planning Commission., (In saying this, I am making no judgment on the merits of the complaints voiced in that letter.) Moreover, if, in the judgment of a particular commissioner's electors, that commissioner is not serving the interests of his or her constituents, that commissioner can be turned out of office at the next regularly scheduled ANC election or may, while in office, be removed through the initiation of a recall petition. See D.C. Code § 1-257(g) (1987).

Sincerely,



Margaret L. Hines  
Deputy Corporation Counsel, D.C.  
Legal Counsel Division

cc: The Honorable Betty Ann Kane