

# Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL  
DISTRICT BUILDING  
WASHINGTON, D. C. 20004

# FILE



IN REPLY REFER TO:  
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January 31, 1990

The Honorable Betty Ann Kane  
Chairperson  
Committee on Government Operations  
Council of the District of Columbia  
District Building  
1350 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004

Re: Must Advisory Neighborhood Commission officers be  
elected at a meeting which is open to the public?

Dear Chairperson Kane:

This is in reply to your January 26, 1990 letter in which you request my opinion concerning whether the annual election of officers by an Advisory Neighborhood Commission (ANC) is an "official action" under the District's Sunshine Law, § 742(a) of the Self-Government Act, D.C. Code § 1-1504(a) (1987), and therefore must take place at a meeting which is open to the public.

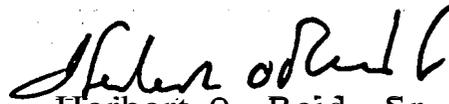
As you note in your letter, § 14(e) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-262(e) (1987), directs that each ANC "shall elect from among its members a chairperson, a vice-chairperson, a secretary, a treasurer and such other officers as may be necessary from among the Commission members in January of each year•..." As you also note, § 14(g) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-262(g) (1987), provides that n[e]ach Commission shall be subject to the provisions of section 742(a) of the District of Columbia Self-Government and Governmental Reorganization Act." Section 742(a) of the Self-Government Act provides:

All meetings (including hearings) of any department, agency, board, or commission of the District government, including meetings of the District Council, at which official action of any kind is taken shall be open to the public. No resolution, rule, act, regulation or other official action shall be effective unless taken, made, or enacted at such meeting. [Emphasis added.]

The term "official action" has been defined as "acts which are authorized by law or which are done under color or by virtue of office." State v. Kee, 238 Kan. 342, 711 P.2d 746, 755 (1985). Since the election of officers by the members of an ANC is expressly mandated by § 14(e) of the Advisory Neighborhood Commissions Act of 1975, I am of the opinion that the election of officers by an ANC is an "official action" as that term is used in § 742(a) of the Self-Government Act.

Accordingly, I am in agreement with the conclusion stated in your letter that when an ANC annually elects its officers, that election must take place at a meeting which is open to the public. Compare our April 28, 1988 letter of advice to Valerie Costelloe: When ANC commissioners vote to fill a vacancy on the commission, they may not vote by secret ballot. (A copy of this letter is attached.)

Sincerely,



Herbert O. Reid, Sr.  
Corporation Counsel, D.C.

Attachment