

# Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL

DISTRICT BUILDING

WASHINGTON, D. C. 20004



IN REPLY REFER TO:

L&O:ING:Ing  
(91-060-1.)

April 11, 1991.

Carolyn Johns-Gray  
Commissioner, ANC 6C-08  
Suite 300  
2041 Martin Luther King, Jr. Avenue, S.E.  
Washington, D.C. 20020

Re: Mayan ANC trade in or sell obsolete office equipment?

Dear Ms. Johns-Gray:

This is in response to your February 8, 1991 letter to the Acting Corporation Counsel seeking advice concerning whether obsolete office equipment purchased by your Advisory Neighborhood Commission with ANC funds may be "traded in or sold and the proceeds used toward new equipment for the same office."

The regulations governing procedures for the disposal of personal property owned by the District government are set forth in the Department of Administrative Services' Materiel Management Manual in section 2632 ("Equipment Management") at section 2632.1 Q ("Disposal of Excess Property"). By their terms these regulations apply to "[t]he head of each department of the District." An Advisory Neighborhood Commission is not a "department" of the District government. Therefore, the Equipment Management regulations of the Materiel Management Manual do not apply to the disposition of office equipment acquired by an Advisory Neighborhood Commission with ANC funds.<sup>1</sup> Although the Manual does not apply, any disposition of such equipment would be subject to the general legal requirement that public property can only be sold or otherwise disposed of in good faith for adequate consideration. See 10 Mc Quillin, Municipal Corporations § 28.37 (3d ed. 1990).

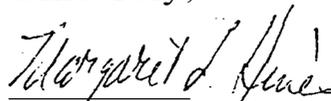
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<sup>1</sup> ANCs are similarly outside the coverage of the Procurement Practices Act. See § 104(c) of that act, D.C. Code § 1181.4(c) (1987), which provides that the Procurement Practices Act "shall apply to all agencies and employees of the District government which are subordinate to the Mayor." (Emphasis added.)

Accordingly, the answer to your question is that, with respect to office equipment acquired by the expenditure of ANC funds, an Advisory Neighborhood Commission may trade in such personal property on new office equipment or may sell it, so long as the sale or trade-in is an arms-length transaction that compensates the ANC for the value of the equipment traded in or sold. The ANC may use the proceeds to purchase new office equipment or for any other public purpose authorized by the provisions of law governing the expenditure of ANC funds.<sup>2</sup>

In a second question in your letter, you ask whether "a chairperson of a commission can be sanctioned for performing in disregard of a resolution passed by the full commission." The statutory provisions governing ANCs (D.C. Code §§ 1-251 through 1-270 (1987)) do not expressly address this question. D.C. Code § 1-262(e) provides that in January of each year each ANC shall elect a "Chairperson." And subsection (d) of that section provides that each ANC "shall establish bylaws governing its operation and internal structure." There is nothing in D.C. Code § 1-262 or anywhere else in the D.C. Code provisions governing ANCs that precludes an ANC from adopting as part of its bylaws a provision establishing a procedure for the removal of its Chairperson by the other Commissioners.

Sincerely,



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

cc: Honorable James E. Nathanson  
Council of the District of Columbia

otis Troupe  
D.C. Auditor

Michael Castillo  
Materiel Management Administration  
Department of Administrative Services

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<sup>2</sup> Mr. Michael Castillo of the Materiel Management Administration, Department of Administrative Services (DAS), has informed this Office that DAS makes office personal property (e.g., furniture) available to ANCs for use without charge. Any office personal property made available from DAS, if no longer needed, may not be sold or otherwise disposed of by the ANC, but rather must be returned to DAS.