



GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ELECTIONS AND ETHICS  
DISTRICT BUILDING  
WASHINGTON, D.C. 20004-3084

PM  
237

COUNCIL

APR 28

April 22, 1992

Caesar L. Marshall, Jr.  
Executive Secretary  
Advisory Neighborhood Commission 6B  
921 Pennsylvania Avenue, S. E.  
suite 108  
Washington, D. C. 20003

Dear Mr. Marshall:

This responds to your letter of April 15, 1992, in which you request my opinion on several issues concerning the appointment procedure to fill a Single Member (SMD) vacancy.

certification

There is no specific time period prescribed for the Board to certify eligible candidates for SMD appointment. The Board is simply required to certify the list of individuals as qualified and to forward the list to the respective Advisory Neighborhood Commission (ANC). Indeed, the list may be certified as early as upon close of business of the Board of Elections and Ethics Office of Public Information, on the last day of the challenge period; provided that no challenges are received. Thus, the list may be certified and forwarded immediately to the ANC.

Public Notice

Presumably, the notice requirement for the hearing is the same as that for all other ANC meetings. D. C. Code, §1-262(c) (1987 Repl. Vol.) requires that notice of all convocations or meetings shall be given in no less than seven (7) days prior to the date of the meeting. Notice may never be waived; however, shorter notice may be given in an emergency or for other good cause. Furthermore, in accordance with the statute, the Commission is held solely responsible for this notice, to wit, "Each commission shall give notice ••••"

The statute requires that the ANC shall conduct a public hearing, among other things, to determine whom the voters of the affected SMD may prefer. Please note that the number of names on the list does not determine the necessity of a hearing. The hearing shall be held whether it contains one name or ten (10) names. Also, the hearing may be held at a regular or special ANC meeting.

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voting

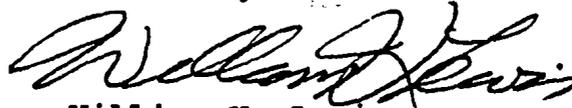
The appointee becomes eligible to vote as a commissioner upon being sworn in by the Mayor or any member of the City Council. \*/

Recourse

The ANC decides ultimately whether the individual shall be appointed. Where the ANC is unable to garner a majority vote for an individual, it shall deliberate until a majority vote is attained.

Nonetheless, if there is only one (1) qualified individual on the certified list forwarded to the ANC, that individual shall be appointed, because the statute dictates that an individual from the Board certified list shall be appointed to the ANC. Regardless of the outcome of any vote, that individual shall be the appointee.

Sincerely,



William H. Lewis  
General Counsel

KSwms/LL

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D. C. Code, §1-501 reads:

All civil officers in the District shall, before they act as such, respectively take and subscribe an oath or affirmation to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices; and the oath or affirmation provided for by this section shall be taken and subscribed, certified, and recorded, in such manner and form as may be prescribed by law.

D. C. Code, §1-338.1 reads, in part:

The Mayor of the District of Columbia, the Chairman of the Council of the District of Columbia, and the members of the Council of the District of Columbia may administer oaths as part of their official responsibilities.