

Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL

DISTRICT BUILDING

WASHINGTON, D. C. 20004



IN REPLY REFER TO:

L&O:LNG:lng
(92-376-L) (LCD-6494)
(92-329-L) (LCD-6423)

December 1, 1992

Myrna Firestone
Chairperson, ANC 2-E
3101 Dumbarton Avenue, N.W.
Washington, D.C. 20007

Re: Expenditures of ANC 2-E funds without
Commission approval

Dear Ms. Firestone:

This is in reply to your September 23, 1992 letter to the Corporation Counsel concerning the functioning of Advisory Neighborhood Commission (ANC) 2-E.

In your letter you assert that since April of this year ANC 2-E Commissioners Bateman, Kent, and McGreevey have "failed and refused" to attend any regularly scheduled monthly meetings of the ANC, and therefore ANC 2-E has been "unable to approve any part or portion of the ANC 2E monies spent by those individual commissioners." You request that the Corporation Counsel notify these three commissioners that they should attend ANC 2-E's October monthly meeting so that ANC 2-E will have a quorum enabling it to transact business, and more specifically deal with the matter of expenditures that have not been approved by the Commission. If Commissioners Bateman, Kent, and McGreevey do not attend the October meeting, you ask that the corporation "vacate the seats" held by these three commissioners. If ANC 2-E is unable to function because Commissioners Bateman, Kent, and McGreevey refuse to attend meetings, you ask the corporation Counsel to "commence whatever actions are necessary to collect the taxpayer funds, which the D.C. Auditor determined were improperly spent from the public treasury."

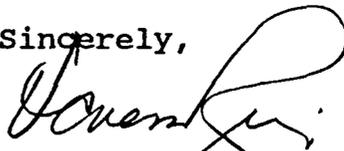
The Corporation Counsel has no authority to declare an ANC seat vacant. That authority is reserved to the District of Columbia Board of Elections and Ethics under the procedures set forth in § 8 of the Advisory Neighborhood Commissions Act of 1975, as amended, D.C. Code § 1-257 (1992).

It is my understanding that, since your letter, Commissioner McGreevey attended ANC 2-E's October 6th meeting along with you

and Commissioners McDermid and Goodrich-Mahoney. It is also my understanding that an election of officers was held at that meeting with the following results: you were elected chairperson; Commissioner Goodrich-Mahoney was elected vice-chairperson; and Commissioner McDermid was elected secretary/treasurer. That a quorum of commissioners was present at this October meeting indicates that ANC 2-E may be able to muster a quorum at later meetings held prior to the end of 1992, at which Commission approval of prior expenditures could be considered. In this regard, § 16 (f) of the Advisory Neighborhood Commissions Act of 1975, as amended, D.C. Code § 1-264(f) (1992), generally requires the "specific authorization of the Commission" for the "expenditure of any amount." Under § 16(g), D.C. Code § 1-264(g) (1992), a disbursement of "Commission funds exceeding \$50 for personal service expenditures shall be specifically approved by the Commission at a public meeting prior to the disbursement... And such a personal service expenditure without the prior approval of the Commission is "deemed to be a personal expense of the officer who authorized the payment, unless the Commission subsequently approves the expenditure." Id.

Thus, at this time, it would be premature for the Corporation Counsel to 'commence a legal' action for the recovery of improperly spent public funds. Any such action, if deemed appropriate after a consideration of all the attendant circumstances, should await the conclusion of the year and an audit report of ANC 2-E's financial operations by the D.C. Auditor.

Sincerely,



Vanessa - iz
Deputy corporation Counsel
Legal Counsel Division

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

otis Troupe
D.C. Auditor

Regina Thomas
Director, Office of Constituent services

Grace Bateman
Former Chairman, ANC 2-E