

FILE

Government of the District of Columbia

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



IN REPLY REFER TO:  
I&O:ING:Ing  
(91-502-1.) (LCD-5900)

January 22, 1992

Joseph B. Jenkins, III  
5131 12th street, N.E.  
Washington, D.C. 20011

Re: ANC 5A actions to fill a vacancy in  
single-member district 5A-02

Dear Mr. Jenkins:

This is in response to your December 17, 1991 letter to the Corporation Counsel in which you complain about "the community election that was held on December 7, 1991 to elect... [an] Advisory Neighborhood Commissioner" for the ANC 5A-02 single-member district (SMD). You state that the persons who voted in this "community election" were not required to produce evidence that they resided within the boundaries of SMD 5A-02, and that "the hours of the election did not allow many residents the opportunity to vote." Further, you request "an immediate investigation into the election before anyone is sworn in as Advisory Neighborhood Commissioner 5A02."

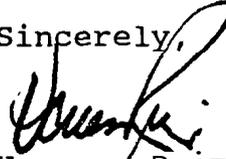
The relevant statutory language provides as follows: "The Advisory Neighborhood Commission shall appoint, after a public hearing and any other efforts designed to elicit the preference of the voters of the affected single-member district," by majority vote of the remaining members, an individual from the said list to fill the vacancy at its next regular meeting." D.C. Code § 1-257(d) (5) (C) (1987); emphasis added. Thus, the "community election" about which you complain appears to have been the "other efforts" method chosen by ANC 5A to "elicit the preference of the voters" of SMD 5A-02 as to who should fill the ANC vacancy in that district. By the terms of the statute, "other efforts," if undertaken, must be directed toward the voters of the single-member district whose vacancy is to be filled. Beyond that, the statute leaves it to the discretion of the ANC to decide whether "other efforts" shall be undertaken and, if undertaken, how they shall be conducted.

I can make no judgment on the accuracy of your allegations. However, even were I to assume that your allegations are true,

they do not clearly demonstrate that the "other efforts" of ANC 5A to elicit the preference of the voters of SMD 5A-02 on December 7, 1991 violated any law. Moreover, this Office is not in a position to conduct an investigation of such an election.

By letters dated November 7, 1991 and November 20, 1991, this Office advised ANC 5A Commissioners James W. Johnson and Brian K. Flowers, respectively, of the requirements of the law applicable to the filling of this vacancy. For your information, I have enclosed copies of these two letters.

Sincerely,



Vanessa R. Iz  
Deputy Corporation Counsel, D.C.  
Legal Counsel Division

Enclosures

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

Mary Baird Currie  
Chairperson, ANC 5A