

Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL

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WASHINGTON, D. C. 20001



IN REPLY REFER TO:
L&O:LNG:lng
(AL-95-124)

March 24, 1995

Dorothy Miller
commissioner, ANC 2-A
2440 virginia Avenue, N.W. suite D 206
Washington, D.C. 20037

Dear Commissioner Miller:

This is in reply to your February 22, 1995 letter to Leo Gorman of this Office in which you request advice concerning the propriety of a letter, dated January 31, 1995, from Sara Maddux and Barbara Kahlow to Reginald Griffith, the Executive Director of the National Capital Planning Commission. Sara Maddux is the chairperson of Advisory Neighborhood Commission (ANC) 2-A, and Barbara Kahlow is the Vice President of the Foggy Bottom Association.

As stated in your letter, the facts are as follows:

At the ANC2A public meeting of January 12, 1995, a motion was made instructing the Chair to send a letter opposing the rule change in Zoning Case No. 94-10 (Tolling) scheduled for a hearing before NCPC on February 2, 1995. I called Chairperson Maddux a week before the hearing and asked for a copy of this letter. She said that when it was written I would receive a copy. To date no copy has been received.

Two days after the hearing, I called NCPC to check if they had received a letter from ANC2A. I was told that a letter was received from Sara Maddux on plain paper and co-signed by a non commission person. Chairperson Maddux said she had co-signed this letter as a private citizen. This action taken by Sara Maddux, as a private citizen, in no way corresponds to the official motion voted by ANC2A at its public meeting of January 12, 1995. Addressing herself as Chairperson of ANC2A in the body of the letter, must have given NCPC the impression that this was intended to be a letter from ANC2A.

You included a copy of the January 31, 1995 letter in question. As you stated, it is on plain paper, and is signed by

both Sara Maddux and Barbara Kahlow. The signature blocks do not indicate that the signers signed in their official capacities as chairperson of ANC 2-A and vice-president of the Foggy Bottom Association, respectively. However, in the second paragraph of the letter, the authors stated:

We, Sara Maddux and Barbara Kahlow, serve as Chairman of the Foggy Bottom-West End Advisory Neighborhood Commission (ANC-2A) and Vice President of the Foggy Bottom Association (FBA), the largest civic association in Foggy Bottom-West End, respectively. We believe that NCPC's action was both unfair and uninformed. We understand that NCPC Member Edward Grandis (who voted with the majority) is willing to make a reconsideration motion if denial of due process occurred.

In view of the fact that Sara Maddux identified herself in this letter as the chairperson of ANC 2-A, it could have mislead the NCPC. Consequently, she should have expressly stated that she was writing the letter in her capacity as a private citizen.¹

You also complain about a resolution that you state "was presented to the five other Commissioners at ANC2A's pUblc meeting of February 15, 1995, ex post facto." If by the term "ex post facto" you mean that the resolution was intended to secure formal ANC 2-A approval of the views expressed in the January 31, 1995 letter in question, there is nothing improper about that.

Sincerely,



Karen L. Cooper, Chief
Legislation & Opinions section
Legal Counsel Division

We do not render legal advice on questions pertaining to private citizens associations, such as the Foggy Bottom Association. You have asked whether Barbara Kahlow's co-authorship/of the January 31, 1995 letter in question constituted "a civic association sUborning the rightful process of the ANC." Presumably, Ms. Kahlow's intent was the same as that of Ms. Maddux, *i. e.*, Ms. Kahlow was writing the NCPC in her capacity as private citizen rather than in her capacity as the vice-president of the Foggy Bottom Association. In any event, there is nothing in the statutory provisions governing ANCs that precludes joint action by an ANC and a private citizens association ona question before a government agency, board, or commission.

cc: The Honorable Harold Brazil
Chairman, Committee on Government operations
Council of the District of Columbia

Lavonna Johnson
Director
Office of Constituent services

Ayo Bryant
Director
Office of Diversity and
Special services

Sara Maddux
Chairperson, ANC 2-A