

Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL
JUDICIARY SQUARE
441 FOURTH ST., N.W.
WASHINGTON, D. C. 20001



IN REPLY REFER TO:
OLC:LNG:lng
(AL-96-343)

August 7, 1996

Crystal Lynch
Staff Assistant
Advisory Neighborhood Commission 1-A
3511 14th Street, N.W.
Washington, D.C. 20010

Re: Mayan Advisory Neighborhood Commission use its funds to provide bulk trash pickup services to the residents of its commission area?

Dear Ms. Lynch:

This is in reply to your June 24, 1996 letter to the Corporation Counsel in which you request advice concerning whether an Advisory Neighborhood Commission (ANC) may use its funds to provide bulk trash pickup service to the residents of its commission area.

Section 16(1) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-264(1) (1992), limits the expenditure of ANC funds to two general purposes. First, an ANC may expend its funds for "public purposes within the Commission area." Second, an ANC may expend its funds for "the functioning of the Commission office, including staff salaries and nominal refreshments at Commission meetings." Under section 13(k) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-261(k) (1992), an ANC may not use its funds to operate a program or provide a service that duplicates an "already available" District government program or service.

You state in your letter that bulk trash is a "major problem" within the ANC 1-A community. You further state that when you notified the Department of Public Works (DPW) about the problem, you were informed by a Mrs. Hutchinson that DPW no longer provides bulk trash pickup service. Thus, if ANC 1-A were to provide its residents with bulk trash pickup service, it would not be duplicating an existing District government service. In order for an ANC expenditure to satisfy the "public purposes" test, the expenditure must confer a "direct public benefit of a reasonably general character, that is to say, to a significant part of the public...." See Opinion of the Justices, 384 So.2d 1051, 1053 (Ala. 1980), citing opinion of the Justices, 347 Mass. 797, 197 N.E.2d 691

(1964). See also our May 19, 1986 letter of advice to Stanley Allen of ANC 1-E (copy enclosed). The expenditure of ANC funds for a bulk trash pickup service could satisfy the "public purposes" test if the service is structured in such a way that would benefit or potentially benefit all residents of ANC 1-A and, at the same time, would prevent individual ANC 1-A residents from benefitting disproportionately from this service at the expense of other ANC 1-A residents.

If ANC 1-A decides to use its funds to provide a bulk trash pickup service for the residents of its commission area, this Office is available to advise ANC 1-A as to whether the service is structured in such a manner as to satisfy the public purposes test. Leslie Hotaling, the Administrator of DPW's Solid Waste Management Administration, has informed this Office that DPW's Fort Totten facility could be used free of charge for such bulk trash disposal if written notification is given to the Solid Waste Management Administration of the details of the program, including identification of the company and the hauling vehicles that will be involved. Leslie Hotaling can be contacted by telephone at 645-7044.

Sincerely,

Charles F.C. Ruff
Corporation Counsel

By:



Karen L. Cooper
Director
Office of Legal Counsel

Enclosure

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

Betty King
Director, Office of the Ombudsman

Ayo Bryant
Director
Office of Diversity and Special Services

Deborah Nichols
Interim D.C. Auditor

Leslie Hotaling
Administrator
Solid Waste Management Administration, DPW

Lavonna Johnson
Director
Office of Constituent services

The Honorable Frank Smith
Councilmember, Ward 1
Council of the District of Columbia