

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-96-603)

December 2, 1996

Dorothy Miller
Commissioner
Advisory Neighborhood Commission 2-A
2440 Virginia Avenue, N.W.
Washington, D.C. 20037

Re: Legal sufficiency of notice of special meeting

Dear Commissioner Miller:

This is in reply to your November 28, 1996 letter requesting the advice of this Office on the legal sufficiency of a notice of a "Special Meeting" of Advisory Neighborhood Commission (ANC) 2-A that you state you received by mail on November 27, 1996.

The notice in question states as follows: "Notice to ANC-2A commissioner[,] Special Meeting[,] Monday, December 2, 1996[,] State Plaza Hotel[,] 8:00 pm[,] sUbject: PEPCO/GWU Parke[,] 2100 Block of F st NW." You ask whether this notice is legally sufficient "when the pUblc is not given notice."

section 14(c) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-262(c) (1992), provides in pertinent part:

Each Commission shall give notice of all meetings or convocations to each Commission member and residents of the Commission area no less than 7 days prior to the date of such meeting. Shorter notice may be given in case of an emergency or for other good cause. * * * [Emphasis added.]

Thus, whether it be a regular meeting, an emergency meeting, or a "special meeting," if the meeting is intended to be a public meeting at which official business will be transacted, notice of the meeting must be given not only to the Commissioners of the ANC, but also to the residents of the Commission area. See our August 2, 1996 letter of advice to you. Therefore, if no notice was given to the residents of ANC 2-A concerning this December 2, 1996 special meeting, then the "meeting is not a pUblc meeting within the in-

tent of the Advisory Neighborhood Commissions Act of 1975, and no official action may validly be taken at such meeting." See our April 17, 1996 letter of advice to you.

You also ask whether "this type of pressure on the chair of ANC-2A by GWU for approval of a request, where the community has been misinformed or not informed, constitute[s] an emergency to such an extent that a Special Meeting is justified."

section 9 of Article V of ANC 2-A's bylaws provides in pertinent part: "special meetings of the Commission may be called by the chairperson or by written request of at least two Commissioners. * * * The purpose of the meeting shall be stated in the notice." In Robert's Rules of Order, 9th ed. 1990, at § 9 (at pp. 91-92), the following is stated in pertinent part in regard to the subject of special meetings:

A special meeting (or called meeting) is a separate session of a society held at a time different from that of any regular meeting, and convened only to consider one or more items specified in the call of the meeting. Notice of the time, place, and exact purpose of the meeting, must be mailed to all members a reasonable number of days in advance. The reason for special meetings is to deal with important matters that may arise between regular meetings and that urgently require action by the society before the next regular meeting.

In a November 22, 1996 letter to ANC 2-A Chairperson Sara Maddux, Michelle Honey, AIA, the Director of Architecture, Engineering and Construction at George Washington University (GWU), stated in pertinent part as follows:

Thank you for the time to present the University's Anniversary Park options at the ANC-2A meeting last night. Unfortunately without a quorum of commissioners, no action was taken. Currently, it is imperative we have as much time as possible for construction prior to winter weather setting in. If we get your resolution by December 1, we can still succeed in delivering the park, thus enhancing the community. If we don't, the university's administration will decide on a best course.

Thus, it appears that the reason for the special meeting is to have ANC 2-A consider a resolution approving the proposal of GWU to convert a lot in the 2100 block of F Street, N.W. into a public park. In determining whether to call a special meeting, the chairperson of ANC 2-A has very broad discretion. There was no abuse of discretion here and, to the extent it governs are applicable, no violation of Robert's Rules of Order. Nevertheless, as indicated above, ANC 2-A may not validly adopt a resolution on this question

at this December 2, 1996 special meeting if notice of this special meeting was not given to the residents of the ANC 2-A area.

Sincerely,

A handwritten signature in cursive script that reads "Leo N. Gorman".

Leo N. Gorman
Assistant corporation Counsel
Office of Legal Counsel

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

Sara Maddux
Chairperson
ANC 2-A