

Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL

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IN REPLY REFER TO:

OLC:LNG:lng
(AL-96-505)

October 16, 1996

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

Re: Was adequate prior notice given in regard
to the ANC 2-A meeting that was held on
September 18, 1996?

Dear Commissioner Miller:

This is in reply to your October 9, 1996 letter in which you request the advice of this Office concerning whether there was adequate notice given to the residents of the ANC 2-A area in regard to the ANC 2-A meeting that was held on September 18, 1996.

You state in your letter that on September 17, 1996, the day before ANC 2-A held its September meeting, you received by mail a notice of the September 18, 1996 meeting. The envelope that contained this notice was postmarked September 16, 1996. You further state in your letter that: "When information was not received from the Chair of ANC-2A in the time required by the D.C. Code and the Foggy Bottom-West End By-Laws, I posted a notice of the meeting time and place in my Single Member District... You do not say, however, when you posted this notice.

Section 14(c) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-262(c) (1992), provides as follows:

(c) 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 the case of an emergency or for other good cause. Notice of regular and emergency meetings may be given by:

(1) Posting written notices in at least 2 conspicuous places in each single-member district within the Commission area;

(2) Publication in a city or community newspaper;

- (3) Mailing notice to a mailing list; and
- (4) In any other manner directed by the Commission.

(Emphasis added.)

In our April 17, 1996 letter to you on the Subject of notice of ANC pUBLIC meetings, we cited our November 8, 1993 advice to Audrey J. Hendricks of ANC 4-C as to the intent of this statutory language, as follows:

Thus, while the statute requires that notice of public meetings be given, it affords each ANC flexibility in determining how it shall satisfy the notice requirement. As the statutory language indicates, the obligation to give notice is initially imposed on "[e]ach Commission," rather than on each individual Commissioner. However, under option (4) above, a Commission may direct that each Commissioner provide the required notice within that Commissioner's single-member district.

If, as your letter indicates, the only general notice given to the residents of ANC 2-A of the September 18, 1996 meeting were notices that were posted in two conspicuous places in each single-member district not earlier than September 16 or 17, 1996, then there was not adequate compliance with the statutory notice requirement with respect to notice to the residents of ANC 2-A unless there was some emergency or other good cause that justified less than seven day's notice.¹ Since the giving of timely notice of an ANC public meeting, in compliance with the statutory command, is a task that is simple and easy to accomplish, the circumstance that an ANC does not have a staff person to perform this task cannot be considered an emergency or other good cause justifying the failure to give the required notice at least seven days prior to the meeting.²

In sum, if the only notice to the residents of ANC 2-A of the September 18, 1996 meeting was the posting of notices one or two

¹ Typically, at the end of each monthly ANC meeting, the ANC Chairperson announces the date, time, and place of the next monthly meeting. Such an announcement constitutes adequate notice of the next meeting to all the commissioners who are in attendance at the meeting. Such an announcement does not, however, satisfy the statutory notice requirement with respect to the residents of the ANC area.

² Some ANCs hire a staff person to perform such tasks as ensuring that proper notice of monthly meetings is given to the ANC's commissioners and to the residents of the ANC area. In other ANC's such tasks are performed by the commissioners themselves or by non-paid volunteers.

days before the meeting occurred and if there was no emergency or other good cause that justified the giving of less than seven days notice, then the September 18, 1996 meeting was not a public meeting within the intent of the Advisory Neighborhood Commissions Act of 1975, and no official action could validly have been taken at that meeting. See our April 17, 1996 letter to you, at page 2.³

Sincerely,
Charles F.C. Ruff
Corporation Counsel

By:



Leo • Gorman
Assistant Corporation Counsel
Office of Legal Counsel

cc: The Honorable Harold-Brazil
Chairman
Committee on Government Operations

Betty King
Director
Office of the Ombudsman

Deborah Nichols
Interim D.C. Auditor

Sara Maddux
Chairperson
Advisory Neighborhood Commission 2-A

³ At page 2 of your letter you allude to the statutory requirement in section 14(b) of the Advisory Neighborhood Commission Act of 1975, D.C. Code § 1-262(b) (1992), that "[e]ach Commission shall meet in public session at regular intervals at least 9 times per year••••" You ask "what options are available to bring ANC-2A into compliance" with this requirement if one or more of its regular monthly meetings is not a properly-noticed meeting. Since these nine meetings are required to be held at "regular intervals," there may not be an option available to bring the ANC into compliance with this requirement. On the other hand, if a particular monthly meeting is not properly noticed, the problem could be addressed by holding a meeting later in the year during a month in which the ANC does not plan to have a regular monthly meeting, such as August, when many ANCs do not schedule a regular monthly meeting.