

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-97-306)

May 23, J.997

vannie Taylor, III
Chairperson
Advisory Neighborhood Commission 4-B
P.O. Box 60581
Washington, D.C. 20039

Re: Notice of election to fill a vacancy in an
Advisory Neighborhood Commission single-member
district

Dear Chairperson Taylor:

This is in reply to your May 21, 1997 request for the advice of this Office concerning the proper procedure to be followed by an Advisory Neighborhood Commission (ANC) in giving notice of an election to fill a vacancy in an ANC single-member district.

section 8{d}{6}{E} of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-257{d}{6} (E) (1996 Supp.), provides in pertinent part as follows:

If the Board [of Elections and Ethics] transmits a list of qualified candidates containing more than 1 name, the affected area Advisory Neighborhood Commission shall give notice at a public meeting that at the next regularly scheduled meeting there shall be an open vote of the members of the affected single-member district to elect the new commissioner. * * *

The notice given by an ANC as to when an election to fill a vacancy in a single-member district shall take place is an official action of the ANC. An ANC may not properly take official action unless it does so at a properly noticed public meeting at which a quorum is present. The quorum requirement is satisfied when there is present at an ANC public meeting a majority of the commissioners, a majority being one more than half of the commission positions in that ANC (whether filled or vacant). Thus, at a public meeting that lacks a quorum, an ANC cannot properly give notice of an election to fill a vacancy in a single-member district {unless there are so many vacancies that it is impossible for the ANC to

satisfy the quorum requirement). If the assemblage of a quorum of commissioners is possible, the ANC must postpone giving the notice until it can do so at a properly noticed public meeting at which a quorum is present. When proper notice is given, it must be announced that the election to fill the vacancy shall occur at the ANC's next regularly scheduled public meeting. since conducting an election to fill a vacancy in a single-member district is an official action, an ANC may not properly conduct such an election unless it does so at a regularly scheduled public meeting at which a quorum is present (unless vacancies make it impossible for an ANC to satisfy the quorum requirement).

As to where an election should be conducted, the place would normally be where the ANC would otherwise hold its next regularly scheduled public meeting. If the ANC determines that a different location would be better suited to the conduct of such election, the ANC is free to choose a different location. In any event, the location of the election should be announced at the same time that notice is given as to the date and time of the election.

Sincerely,

Jo Anne Robinson
Interim Corporation Counsel

By:



Leo N. Gorman
Assistant corporation Counsel
Office of Legal Counsel

cc: The Honorable Kathleen Patterson
Chairperson
Committee on Government Operations
Council of the District of Columbia

William P. Vazquez
Director
Office of the Ombudsman

Ayo Bryant
Director
Office of Diversity and Special Services

Alice P. Miller
Executive Director
Board of Elections and Ethics