

Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL

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IN REPLY REFER TO:

OLe: LNG: Ing
(AL-97-312)

May 30, 1997

Marshall Williams
Chairman
Advisory Neighborhood Commission 6-A
652 Ninth street, N.E.
Washington, D.C. 20002

Re: Advisory Neighborhood commission financial practices

Dear Chairman Williams:

This is in reply to your May 28, 1997 letter requesting the advice of this Office concerning the proper management of Advisory Neighborhood Commission (ANC) financial matters. Your questions relate to the maintenance of proper signature cards at the bank at which the ANC maintains its checking account, the presentation to the ANC treasurer of pre-signed blank checks, the removal of checks and check stubs from the ANC check book, and the custody of ANC financial records, such as checkbooks and bank statements.

section 16(f) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-264(f) (1992), provides as follows:

Any expenditure of funds by a Commission shall be authorized in writing by the treasurer or Chairman and recorded by the treasurer in the Commission's books of accounts. No expenditure of any amount shall be made without the specific authorization of the Commission. Any expenditure made by check shall be signed by at least 2 officers of the Commission, one of whom shall be the treasurer or Chairman. The check shall, prior to signature, contain the date of payment, the name of the payee, and the amount of the payment. No check may be made payable to cash. Any check shall be pre-numbered, shall bear the name of the Commission on its face, and shall be issued in consecutive order. The depository in which the Commission maintains a checking account shall be immediately notified of any change in Commission officers.

Pursuant to this section, an ANC is required to keep its depository bank notified at all times of which officers of the ANC are authorized to sign checks. What this means in practice is that

an ANC is required to have the proper signature cards on file at the depository bank at all times, which, of course, includes the requirement that new signature cards be executed and non-current ones be destroyed as necessary when changes are made as to the ANC officers who are authorized to sign ANC checks. To prevent the unauthorized addition or removal of such signature cards, the chairman of the ANC could meet with a bank representative to work out a procedure that insures that any changes in the signature cards on file with the bank are authorized changes. Such procedure should be reduced to writing and could provide, for example, that changes in signature cards on file at the bank may be made by the bank only upon receipt by the bank of a notification in writing, signed by the chairman and treasurer of the ANC, and evidenced by a copy of an ANC resolution that is signed by the ANC secretary.

As to the signing of blank ANC checks, such practice is expressly prohibited by section 16(f), quoted above. Every ANC check must be otherwise completely filled out as to its essentials before it is signed by any officer of the ANC.

As to the removal of checks and check stubs from the ANC checkbook, generally speaking, checks should not be removed from the checkbook until they are filled out and ready to be signed. This practice facilitates the contemporaneous recording of the pertinent check information on the check stub and reduces the likelihood that checks will become lost or improperly used. Check stubs should never be separated from a checkbook.

As to the custody of an ANC's financial records, the language of section 16 of the Advisory Neighborhood Commissions Act of 1975, particularly subsections (c), (f), and (j), D.C. Code §§ 1-264(c), (f), and (j) (1992) (see attachments), as such language relates to the duties of the treasurer of the ANC, indicates, that the treasurer of an ANC is responsible for maintaining such records, which, of course, entails having physical possession of these records. Thus, financial records such as an ANC's checkbook and bank statements would normally be maintained by and be in the physical custody of the ANC's treasurer.!

You state in your letter that a commissioner of ANC 6-A has possession of ANC 6-A's checkbook and has refused to turn it over to ANC 6-A's treasurer. As a last resort, a court action could be filed against the commissioner to force the relinquishment of the checkbook in question. Another, certainly more expeditious, solution would be to close the existing checking account and open a new checking account and use new checks. Here, it is pertinent to note

While the treasurer is normally the commissioner who maintains physical custody of the ANC's financial records, any commissioner of the ANC has a right to examine such records upon reasonable request.

that you have forwarded to me a photocopy of one of ANC 6-A's current checks.² The check has only one signature line on it. Since an ANC check is required to be signed by two officers of the ANC, the check should have two signature lines on it. Moreover, if, as appears to be the case, one of those signatures is required by ANC 6-A's bylaws to be that of the treasurer, then ideally, the upper signature line should have the word "Treasurer" printed beneath that line, and the lower signature line should have the word "Countersignature" printed beneath it. Also, we recommend that ANC checks should have printed on their face a warning something like the following: "This check is not valid unless it is countersigned." Thus, however you choose to resolve the problem of the physical possession of the current ANC 6-A checkbook, we recommend that ANC 6-A order a new checkbook containing checks of the suggested design. Such a design will help prevent fraud and abuse in the expenditure of ANC 6-A funds by check.

Sincerely,

Jo Anne Robinson
Interim Corporation Counsel

By:



Leo N. Gorman
Assistant Corporation Counsel
Office of Legal Counsel

Attachments

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

Anthony Cooper
D.C. Auditor

² The check is blank except for a signature on it. As noted above, to sign an ANC check that has not been filled in as to date, payee, and amount of payment, is a violation of section 16(f) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-264(f) (1992).