

Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL

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WASHINGTON, D. C. 20001



IN REPLY REFER TO:
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(AL-97-499)

September 30, 1997

Jill Diskan
Secretary-Treasurer
Advisory Neighborhood Commission 3-E
P.O. Box 9953 Friendship Station
Washington, D.C. 20016

Re: Does the deposit of ANC funds in an insured account at Wheat First Butcher Singer satisfy the requirements of section 16(b) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-264(b) (1992)?

Dear Ms. Diskan:

This is in response to your September 24, 1997 letter in which you request the written advice of this Office concerning whether it is legally permissible for Advisory Neighborhood Commission (ANC) 3-E to deposit its funds in "an interest bearing account with Wheat First Butcher Singer" (Wheat First).

section 16(b) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-264(b) (1992), provides in pertinent part:

Each Commission shall by resolution designate a commercial bank, savings and loan association, credit union, or any combination thereof, which is insured by the government of the United States pursuant to the Federal Deposit Insurance Act, approved September 21, 1950 (87 Stat. 873; 12 U.S.C. 1811 et seq.), and which is located within the District of Columbia, as a depository of all funds received by the Commission.

The general maxim of statutory construction applicable here is known in the law by the Latin phrase "expressio unius est exclusio alterius," Le., the mention of one thing implies the exclusion of another. This means that when the Council of the District of Columbia enacts a statute that mandates that a thing be done in a given manner, absent clear evidence to the contrary (and there is no such evidence here), it is presumed that the Council intended that the thing shall not be done in any other manner. See McCray v. McGee, 504 A.2d 1128, 1130 (D.C. 1986). See also, 2A Sutherland

statutory construction, § 47.23 (5th ed. 1992). Applying this rule of statutory construction to section 16(b) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-264(b) (1992), I interpret that section to mean that an ANC must deposit its funds in a financial institution in the District of Columbia whose deposits are insured by the Federal Deposit Insurance Corporation (FDIC) pursuant to the Federal Deposit Insurance Act. Representatives of both Wheat First and the FDIC have, by telephone, confirmed to this Office that money deposited into an account at Wheat First is not insured against loss by the FDIC under the Federal Deposit Insurance Act.¹

Accordingly, I conclude that under the current wording of section 16(b) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-264(b) (1992), it is not legally permissible for ANC 3-E to deposit its funds into an account at Wheat First. ANC 3-E should promptly withdraw its funds from Wheat First and deposit the funds in a financial institution located in the District of Columbia whose deposits are FDIC insured.

Sincerely,



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 Vazquez
Director
Office of the Ombudsman

Ayo Bryant
Director
Office of Diversity and Special Services

Anthony Cooper
D.C. Auditor

¹ The Wheat First representative reported that funds deposited with Wheat First are insured against loss, but not by the FDIC. As indicated above, this does not constitute compliance with the requirements of section 16 of the Advisory Neighborhood Commissions Act of 1975, because ANCs are not free to substitute some other form of deposit insurance for FDIC deposit insurance.