

# 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:

Prepared by:OLC:WCW:LNG:pw  
(AL-98-089)

February 27, 1998

Sara Maddux  
Commissioner  
Advisory Neighborhood Commission 2-A  
522 21st Street, N.W.  
Apartment 401  
Washington, D.C. 20006

Re: Quorum at February 18, 1998 meeting of ANC 2-A

Dear Commissioner Maddux:

This is in reply to your February 20, 1998 letter to Corporation Counsel John M. Ferren concerning whether there was a quorum present at the February 18, 1998 meeting of Advisory Neighborhood Commission (ANC) 2-A.

There are six single-member districts in ANC 2-A. At the February 18, 1998 meeting, there were three commissioners present and there was one vacancy. In the past, this Office has advised ANCs that in such circumstances, a quorum is present, but only for the purpose of adopting written recommendations on proposed District government actions. This advice is based on the language of section 13(d) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-261(d) (1992), which provides in pertinent part that official action in this regard may be taken if "a majority of the elected representatives of the Commission is present." (Emphasis added.) Since a majority of the "elected" representatives of ANC 2-A was present at the February 18, 1998 meeting, ANC 2-A could validly adopt written recommendations on proposed District government actions. For valid official actions on matters other than the adoption of written recommendations on proposed District government actions -- including an election to fill a vacant ANC seat -- four commissioners of ANC 2-A would have to be present (i.e., a majority of the total number of single-member district positions in the ANC, whether actually filled by incumbents or not). See, e.g., our January 16, 1997 letter of advice (copy attached) to Barbara Kemp

of ANC 8-C.<sup>1</sup>

You also inquire about certain comments apparently made by former Assistant Corporation Counsel Leo Gorman at the meeting. As a retired Assistant Corporation Counsel, Mr. Gorman no longer officially represents the views of this Office. However he had the right, as a citizen, to express his views. Furthermore, it is my understanding that, at the meeting, Mr. Gorman was identified by Commissioner Miller as a "former" Assistant Corporation Counsel, and that at no time did he purport to represent this Office. Consequently, I perceive no problem with Mr. Gorman's comments.

Your February 20, '998 letter indicates that ANC 2-A received other legal advice concerning whether business at the February 18, 1998 meeting could go forward. I understand from other persons that the source of this other legal advice was the Office of General Counsel of the D.C. Board of Elections and Ethics. If the advice received from that office was that, without four commissioners present, ANC 2-A could not validly conduct any official business whatsoever, then that advice was incorrect.<sup>2</sup> In this regard, it is

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The quorum law, as it affects ANCs, is about to be changed. Very recently, the Council of the District of Columbia passed and the Mayor signed the "Advisory Neighborhood Commissions Quorum Definition Amendment Act of 1998, 11 D.C. Act 12-264, which will become effective sometime this spring when the 30-day Congressional review period expires. D.C. Act 12-264 would repeal the above-quoted language in section 13(d) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-261(d) (1992), and would amend section 14(b), D.C. Code § 1-262(b) (1992), by adding the following sentence: "A Commission may declare a quorum and take official action if a majority of elected representatives of the Commission is present, provided that a majority of the single-member districts have representatives on the Commission pursuant to section 8."

<sup>2</sup> The Personnel in the Office of General Counsel of the Board of Elections and Ethics are not necessarily aware of the contents of the letters of advice that have been issued by this Office on the question of quorum requirements.

"[l]egal interpretations of statutes concerning or affecting the commissions...are to be obtained from the Corporation Counsel...." See section 15(d) (3) (A) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-263 (d) (3) (A) (1992).

Sincerely,



Wayne C. Witkowski  
Director  
Office of Legal Counsel to the Council

~~Attachment~~ Enclosure

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

Deborah K. Nichols  
Interim D.C. Auditor

William Sanford  
Office of the General Counsel  
Board of Elections and Ethics

Bernard Mozer  
Chairperson  
Advisory Neighborhood Commission

Dorothy Miller  
Commissioner  
Advisory Neighborhood Commission 2-A

Barbara F. Kahlow

Richard Sheehey