

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE CORPORATION COUNSEL

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Office of Government Operations  
Legal Counsel Division

December 19,2001

Virginia L. Major  
Commissioner, ANC 8C  
3301 5<sup>th</sup> Street, S.E.  
Washington, D.C. 20032

Re: Notice of August 16,2001 Advisory Neighborhood Commission Special Meeting

Dear Commissioner Major:

This responds to your letter of December 8,2001 and follow-up phone call. You request advice regarding the Advisory Neighborhood Commission (ANC) 8C special meeting held on August 16,2001. You state that you never received any written notice of the meeting, although you recall that the meeting might have been mentioned at the end of a prior ANC special meeting, and that inadequate public notice was given. You state that there was no posting of flyers regarding the meeting, although you were informed that some flyers were passed out individually to persons who live in the area affected by a zoning matter that was the subject of the meeting. Notice was not published in any newspaper, nor was it distributed to a mailing list. You state that ANC 8C has no approved minutes for the August 16,2001 meeting. The Chair states in a letter to the Board of Zoning Adjustment dated August 30, 2001 that "proper notification [was] given to residents and commissioners". You ask whether the meeting was an official meeting under ANC law.

Notice of ANC meetings is governed by section 14(c) of the Advisory Neighborhood Commissions Act of 1975, effective October 10, 1975, D.C. Law 1-21, D.C. Official Code § 1-309.11(c), as amended by the Comprehensive Advisory Neighborhood Commissions Reform Amendment Act of 2000 ("ANC Reform Act"), effective June 27, 2000, D.C. Law 13-135.

Each Commission shall give notice of all meetings or convocations to each Commissioner, individuals with official business before the Commission, 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 must include, but is not limited to, at least 2 of the following:

- (1) Posting written notices in at least 4 conspicuous places in each single-member district within the Commission area;
- (2) Publication in a city or community newspaper;

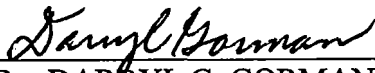
- (3) Transmitting or distributing notice to a list of residents and other stakeholders in the community; and
- (4) In any other manner approved by the Commission.!

(Emphasis added.) If, as you describe, the only notice of the meeting was given by a verbal announcement at the end of a prior meeting and passing out flyers to a few individuals, then the notice was inadequate under the law. The ANC Reform Act does not provide for verbal announcements as a form of notice. Therefore, in order for a verbal announcement to qualify as notice under the law, it would have to have been approved by the Commission as a form of notice. There is no indication that the Commission has ever formally approved verbal announcements as an alternative form of notice. Furthermore, the passing out of notices to certain individuals who live in a specific area of the ANC does not rise to the level of distribution of notice required by the statute. The result of an ANC's failure to comply with the statutory requirement of two forms of notice is that no official action may be taken at the meeting, and any action taken by an ANC at such a meeting is invalid.

If you have any further questions with regard to this matter, please contact Annette Elseth, Assistant Corporation Counsel, Legal Counsel Division at 724-5537.

Sincerely,

ROBERT R. RIGSBY  
Corporation Counsel

  
By: DARRYL G. GORMAN  
Senior Deputy Corporation Counsel  
for Government Operations  
Legal Counsel Division

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(AL-01-784)

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<sup>1</sup> Section IV of ANC 8C's by-laws requires that notice of regular meetings be given "by posting written announcements in at least two conspicuous places in each single-member district." As was pointed out to you in letters dated February 13, 2001 and August 1, 2001, because of the passage of the ANC Reform Act ANC 8e's by-laws are now out of date and should be revised to include posting in 4 locations in each single member district, rather than 2, and to add an additional form of notice (either publication, a mailing list, or another form of notice approved by the ANC).