

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE CORPORATION COUNSEL

* * *



Office of Government Operations
Legal Counsel Division

March 1, 2002

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

Re: Notice of Advisory Neighborhood Commission Meetings

Dear Commissioner Major:

This responds to your letter of February 7, 2002 wherein you request advice regarding the legality of Advisory Neighborhood Commission (ANC) 8C meetings held on January 9, 2002 and February 6, 2002. You state that at the December 15, 2001 meeting the Commissioners decided to require each Commissioner to distribute notices of meetings within their single member districts (SMD).¹ With regard to the two meetings at issue, you indicate that a notice was placed in each Commissioner's box, but that you saw no notices posted in the community. In addition, with regard to the February meeting, notice was published in the Washington Informer published January 31st. You state that while the Informer was available on the street beginning on January 31st, you received your copy in the mail on February 4th. You also state that this newspaper is not readily available in the community for sale in stores or street boxes. You don't believe it should serve as notice for the entire community. You state that ANC 8C has no approved minutes for either meeting. You ask whether the meetings were official meetings 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 You indicated that the December meeting lacked a quorum. However, it is not clear that an "official action" was taken at the December meeting that required a quorum. The minutes of the December meeting reflect that one Commissioner "reminded" members of their responsibility to pass out flyers in their SMDs. Even assuming that the decision to adopt this procedure was invalid because of the lack of a quorum, it is not fatal to the issue you present.

- (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.) Even if the Commissioners had actually posted notice in each SMD in 4 conspicuous locations regarding the January meeting, the notice for the meeting would have been inadequate. The statute requires two types of notice and the ANC would have provided only one. With regard to the February meeting, the notice published in the Washington Infonner, plus notice posted in 4 places in each SMD would constitute adequate notice of the meeting.² However, you indicate that the Commissioners failed to post the required number of notices in each SMD. Thus the notice was inadequate. The result of an ANC's failure to comply with the statutory requirement of two fonnns of notice for each meeting is that no official action may be taken at such a meeting, and any action taken by an ANC at such a meeting is invalid.

Despite our repeated advice over the last year regarding the inadequacy of public notice provided by ANC 8C,3 the ANC continues to ignore the plain requirements of the law. If the ANC continues to do so, future ANC meetings will be invalid as well. Therefore, I urge you to continue your efforts to bring the ANC into compliance with the statutory notice requirements so that the ANC can concentrate on the important issues affecting its neighborhoods, and avoid undennining its own actions with procedural deficiencies.

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



DGG/abe
(AL-02-094)

² The choice of newspaper to use as a fonn of notice is left to the discretion of the ANC as long as the newspaper is a "city or community" newspaper, and the notice is published 7 days in advance of the meeting.

³ See letters dated February 13,2001, August 1, 2001, and December 19,2001.