

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE CORPORATION COUNSEL

* * *



February 4, 2003

Dion Jordan
Commissioner
Advisory Neighborhood Commission 8C
District of Columbia Government
1704 5th Street, N.W.
Washington, D.C. 20001

RE: Whether January 8 ANC Meeting Was Lawfully Convened

Dear Commissioner Jordan:

This responds to your letter dated January 10, 2003. In your letter you ask for advice from the Office of Corporation Counsel as to whether a meeting held on Wednesday, January 8, 2003 was lawfully convened. You stated in your letter that no official notice was published or given and that some of the residents that did attend the meeting received information about the meeting at the last minute through the telephone or the "grapevine". You stated that there were not even twenty persons present at this meeting out of approximately 14,000 citizens in the ANC geographic area.

The statutory provisions governing the convening of ANC meetings and ANC emergency meetings are found in section 14 of the Advisory Neighborhood Commissions Act of 1975, effective October 10, 1975, D.C. Law 1-21, as amended by the Duties and Responsibilities of Advisory Neighborhood Commissions Act, effective March 30, 1976, as further amended by the Comprehensive Advisory Neighborhood Commissions Reform Amendment Act of 2000, effective July 27, 2000, D.C. Law 13-135, § 3(b), D.C. Official Code § 1-309.11(c), which states in pertinent part as follows:

(c) Each Commission shall give notice of all meetings ... 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 supplied.)

D.C. Official Code § 1-309.11(c).

In an April 17, 1996 letter issued by the Office of the Corporation Counsel to Dorothy Miller, Commissioner of ANC 2-A., this Office stated as follows with respect to the effect of an unlawful convening of an ANC meeting:

Since the notice requirement of section 14(c) of the Advisory Neighborhood Commissions Act of 1975 " is mandatory, I conclude that if, with respect to a particular meeting, an ANC fails to comply with this notice requirement, then that meeting is not a public meeting within the intent of the Advisory Neighborhood Commissions Act of 1975, and no official action may validly be taken at such a meeting. The effect is the same as the situation where an ANC meets but finds that it lacks a quorum. At such a meeting, the assembled commissioners may engage in general discussions of matters of current concern, but may not transact official business such as adopting the minutes of a previous meeting, a treasurer's report, a quarterly financial report, or written recommendations regarding a proposed District government action. The only proper official action that may be taken at such a meeting is the adoption of a motion to adjourn.

Complaints from ANC 8C regarding the inadequacy of public notice provided by ANC 8C have continued for two years now. Responses by the Office of the Corporation Counsel on February 13, 2001, August **1,2001**, December 19,2001, and March **1,2002** to this situation have repeatedly provided the same advice and counsel. The letter dated March **1,2002**, stated as follows:

Despite our repeated advice over the last year regarding the inadequacy of public notice provided by ANC 8C, 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 undermining its own actions with procedural deficiencies.

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

Sincerely,

ARABELLA W. TEAL
Interim Corporation Counsel



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

DOG/nla
(AL-03-074)