

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL**



Legal Counsel Division

November 9, 2006

Deborah K. Nichols
District of Columbia Auditor
717 14th Street, N.W.
Suite 900
Washington, D.C. 20005

Re: Whether an ANC may approve a grant to commission plans and drawings for a proposed park?

Dear Ms. Nichols:

This letter responds to a request from your office (through Lynard Barnum) for guidance concerning the propriety of a grant from ANC 4C to an organization known as Washington Central Parks. The grant request seeks \$3500 to hire a landscape designer to prepare plans and drawings for a parks and trails system envisioned by the organization for an area in the District currently occupied by the Armed Forces Retirement Home (Home) and to hold meetings with residents to obtain community input. For the reasons that follow, the ANC may approve the grant request.

According to the grant application, approximately half of the 272 acre campus on which the Home sits is to be developed for commercial and residential uses.¹ Washington Central Parks is an organization made up of residents of neighborhoods surrounding the affected area who wish to propose a different plan – one that would instead include parks and trails.

Section 16(l)(1) of the Advisory Neighborhood Commissions Act of 1975, as amended, effective October 10, 1975, D.C. Law 1-21, D.C. Official Code § 1-309.13(l)(1) (2006 Supp.) states in pertinent part: “[ANC] [e]xpenditures may be in the form of grants by the Commission for public purposes within the Commission area pursuant to subsection (m) of this section.” Subsection (m)(1) states: “A Commission may approve grants only to organizations that are public in nature and benefit persons who reside or work within the Commission area. The services provided by the grantee organization must not be

¹ The current plans propose 1.2 million square feet of development along Park Place from Rock Creek Church Road south to Irving Street and 4.13 million square feet of development from 1st Street, N.W. east to North Capitol Street and north along North Capitol Street.

duplicative of any that are already performed by the District government.” D.C. Official Code § 1-309.13(m)(1) (2006 Supp.).

As discussed in a letter to Philip C. Spalding on July 13, 2005, an ANC grant can be to either a public or private organization, but not to an individual. Here the grant would be to a non-profit organization set up, according to its articles of incorporation, to “promote, create and support parks and trails” on the site in question. Both the public nature and stated purpose of Washington Central Parks, easily satisfy the first requirement.

The second requirement, that ANC grants provide a benefit to those who reside or work within the Commission area, is also met. As stated in the grant application, the landscape designer would propose plans for parks and trails. The contemplated use – open space for public rather than private use – would unquestionably be a benefit to the residents of the community.²

Finally, a grant must not duplicate a service “already performed by the District Government.” *Id.* Ordinarily, the Department of Public Works is responsible for the District’s parks and any attempt to usurp planning or improvement of the District’s parks might be viewed as duplicative. In this instance, however, the site is federal, not District land, and, as a result, the National Capital Planning Commission is the federal body with planning jurisdiction for the site. Thus, there would be no possibility of duplicating an existing District-provided service.

Accordingly, ANC 4C has the authority to make the proposed grant to Washington Central Parks to be used for the purposes stated in its grant application.

Sincerely,

EUGENE A. ADAMS
Interim Attorney General for the District of Columbia

/s/

EAA/dps

(AL-06-600)

² That the site area is so large that it might go beyond the confines of ANC 4C and therefore could also benefit other ANC areas is of little concern. Benefit to other ANCs would be incidental to the benefit being conferred on ANC 4C residents and we do not interpret the statute to mean that such benefit must necessarily be exclusive to the ANC that gives the grant funds.