

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:
LDC:RAS: LNG:ae
RL-94-8
MISC. 94-11

May 13, 1994

Vivian E. Brown, Commissioner
Advisory Neighborhood Commission 1-A
3511 14th street, N.W.
Washington, D.C. 20010

Re: What action should ANC 1-A take regarding the use
of its resources for partisan political purposes?

Dear Commissioner Brown:

This is in reply to your April 11, 1994 letter to Leo Gorman of this Office in which you seek advice concerning how Advisory Neighborhood Commission (ANC) 1-A should handle a situation involving the use of ANC 1-A resources for partisan political purposes.

You state in your letter that "[t]he ANC 1A staff person permitted Gary Imhoff to enter the ANC office and xerox some materials. Upon further investigation, it has been determined that Mr. Imhoff was xeroxing programs for the Ward One Democrats' [1993] Hall of Fame Dinner." You state that "Dorothy Brizill, who is a candidate in the Ward One Council race, received a free political advertisement in the program for the Ward One Democrats' Hall of Fame Dinner in return for providing the printing of the programs." You further state that the "commission never formally approved the use of the zerox machine for the Ward One Democrats' event and to our knowledge, no ANC Commissioners were aware that the xerox machine was being used for this prior to its occurrence." You ask that this Office investigate the matter, and advise you as to "the liability of the various individuals involved," as to "what actions can the ANC take to recover the funds that were spent on xeroxing the program." You enclosed with your letter a copy of the program in question. On the cover of the program the following appears: Ward One Democrats 1993 Annual Hall of Fame Banquet Blackburn Center Howard University October 18, 1993." One page of the program contains the message: "Congratulations to the Ward One Democrats and to our 1993 Hall of Fame Honorees." Below this message appears the following: "Dorothy A. Brizill 1994 Democratic Candidate for Ward One Councilmember".

Section 16(1) of the Advisory Neighborhood Commissions Act of 1975, as amended (act), D.C. Code § 1-264(1) (1992), provides in pertinent part that "[f]unds allocated to the Commissions may not be used for a purpose that involves partisan political activity

" By necessary implication, this prohibition also applies to the use of ANC I-A property (such as paper and a copying machine) purchased with pUBLIC funds allocated to ANC 1-A. Because the program was for an event sponsored by Ward One Democrats and contained a message which had the effect of promoting Dorothy A. Brizill as a "Democratic Candidate for Ward One Councilmember," the printing of the program was for a purpose that involved partisan political activity. Therefore, if ANC I-A's resources were used to produce the program, then such use constituted a violation of section 16(1) of the act.

Irregularities of this nature are not investigated by this Office. They fall within the financial oversight responsibilities of the D.C. Auditor. If it is possible to determine the value of the ANC I-A resources that were used to produce this program, you should seek reimbursement of that amount directly from Mr. Imhoff or from the person or organization for whom or for which he was acting. If a request for reimbursement is unsuccessful, a cause of action in Superior Court may lie against Mr. Imhoff or his principal, or both. In that event, you should contact the Enforcement Division of this Office, Room 6N11, 441 4th Street, N.W., Washington, D.C. 20001, tel. 727-3500.

Sincerely,



Thomas F. Bastow
Deputy Corporation Counsel
Legal Counsel Division

cc: The Honorable Harold Brazil
Chairman
Committee on Government Operations
Council of the District of Columbia

Regena Thomas
Director
Office of Constituent Services

Russell A. Smith
D.C. Auditor

Metcalf King
Deputy Corporation Counsel
Enforcement Division