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Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL
DISTRICT BUILDING
WASHINGTON, D. C. 20004



IN REPLY REFER TO:
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(92-316-L) (LCD-6400)

December 18, 1992

otis H. Troupe
District of Columbia Auditor
415 12th street, N.W. Room 210
Washington, D.C. 20004

Re: Was the ANC 1-B quarterly report submitted to the Auditor on June 26, 1992 legally approved by the ANC?

Dear Mr. Troupe:

This is in response to your August 5, 1992 letter to the Corporation Counsel requesting the advice of this Office concerning the legal propriety of the quarterly report submitted to you by Advisory Neighborhood Commission (ANC) 1-B on June 26, 1992.

Your request for the advice of this Office was prompted by a July 22, 1992 letter to you from ANC 1-B Commissioners Stanley J. Mayes and W. Norman Wood, Jr. In that letter, commissioners Mayes and Wood allege that the quarterly financial report that was submitted by ANC 1-B to you on June 26, 1992 was legally deficient because: (1) it was approved at ANC 1-B's June 10, 1992 meeting at which there was not a quorum present, and (2) it was signed by Phyllis Stewart-Thompson, as treasurer, and Reese James, as secretary, neither of whom had been properly elected as officers of ANC 1-B.

ANC 1-B has thirteen single-member districts (SMD). At its February 12, 1992 public meeting, Commissioner Mary Treadwell was elected Chairperson, Commissioner Tony Jones was elected Vice-Chairperson, Commissioner Carl Robinson, who was not present, was elected treasurer, and Commissioner Phyllis Stewart-Thompson was elected secretary. By letter postmarked March 30, 1992, Commissioner Robinson resigned as treasurer.

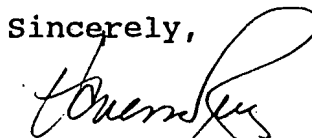
The person who was originally elected to represent SMD 1B01, Muriel Martin, resigned in early 1992. Mr. Peter Brehm was the only person who sought to fill this vacant position. By letter, dated April 7, 1992, the Board of Elections and Ethics (BOEE) informed ANC 1-B Chairperson Mary Treadwell that Mr. Brehm had filed the requisite nominating petition and had otherwise met

the requirements for appointment to fill the SMD 1B01 vacancy. since Mr. Brehm had no competitors for this vacancy, the BOEE letter informed Chairperson Treadwell that ANC 1-B was required as a matter of law to appoint Mr. Brehm to fill the SMD 1B01 vacancy at its next regularly scheduled public meeting. At its June 10, 1992 meeting, six of the originally elected commissioners and Mr. Brehm were present. On the basis of the April 7, 1992 BOEE letter, the six commissioners present adopted a resolution appointing Mr. Brehm commissioner of SMD 1B01. Mr. Brehm was then sworn in by Chairperson Treadwell, at which point there was a quorum permitting the conduct of further business. This further business included the approval of the April to June 1991 quarterly report submitted to you on June 26, 1992, and the election of Commissioners Stewart-Thompson and James as treasurer and secretary, respectively.

The BOEE's advice to Chairperson Treadwell that ANC 1-B was required as a matter of law to appoint Mr. Brehm to fill the vacancy in SMD 1B01 was correct. The applicable law at this time was § 3(5)(C) of the Advisory Neighborhood Commission Election Emergency Act of 1992, effective January 9, 1992, D.C. Act 9-131, 39 OCR 330. Under § 3(5)(C), ANC 1-B was required to appoint a person to fill the vacancy from the list of qualified persons transmitted by the BOEE to ANC 1-B. Since Mr. Brehm was the only person on the list, ANC 1-B had no choice but to appoint him commissioner of SMD 1B01.

In view of the legal requirements of § 3(5)(C) of D.C. Act 9-131, I conclude that it was not a violation of law for ANC 1-B to adopt a resolution at its June 10, 1992 meeting appointing Mr. Brehm commissioner of SMD 1B01, notwithstanding the absence of a quorum of commissioners at the outset of that meeting. since after Mr. Brehm was appointed and sworn in, ANC 1-B then had a quorum of seven commissioners present, its subsequent election of a new treasurer and secretary and its approval of the April to June 1991 quarterly report submitted to you on June 26, 1992 were legally proper.

Sincerely,



Vanessa Uiz
Deputy Corporation Counsel
Legal Counsel Division

cc: The Honorable James E. Nathanson
Council of the District of Columbia

Regina Thomas
Director, Office of Constituent Services

Mary Treadwell
Chairperson, ANC I-B