

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE CORPORATION COUNSEL

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Office of Government Operations
Legal Counsel Division

August 9, 2001

Andrew Miscuk
Chair
Advisory Neighborhood Commission 1C
P.O. Box 21652, N.W.
Washington, D.C. 20009

Re: Loan of ANC computer

Dear Commissioner Miscuk:

This responds to your memorandum dated August 1, 2001, in which you request advice on how to accommodate the request of a Commissioner in Advisory Neighborhood Commission (ANC) 1C to borrow one of the two ANC 1C computers for her use in conducting ANC business. Specifically, you ask whether loaning the computer to the Commissioner for use in her home for the duration of her term is allowable, and what policies and procedures govern the loan of this equipment.

ANC records are required by law to be kept at the ANC office, and all Commissioners are entitled to equal access to ANC records and the office. *See* § 16 of the Advisory Neighborhood Commissions Act of 1975, effective October 10, 1975, D.C. Law 1-21, D.C. Official Code § 1-309.13(e) and (P). There is no legal requirement that ANC property or equipment be kept only at the ANC office. Therefore, the ANC may approve the use of the computer by the Commissioner in her home. However, if the computer that you are planning to loan to the Commissioner has any ANC records on it, the computer must be kept at the ANC office unless the records or copies of the records, if appropriate, are available at the office while the computer is on loan.

There are no generally applicable procedures that govern the use of ANC property or equipment. An ANC considering such a loan should establish its own procedures. I would advise that the procedures include: 1) a vote of the ANC to approve the loan to the Commissioner'; and 2) an agreement approved and signed by the ANC and the Commissioner that: identifies the equipment loaned; requires that the equipment be used only for ANC business (and specifically prohibits use for partisan political purposes); and specifies the duration of the agreement (for example, equipment to be returned at the end of the Commissioner's term, upon vote of the ANC, or upon notice or demand). You may also want to include provisions: requiring reasonable access to the equipment for maintenance, to review compliance with the agreement, or for use by other Commissioners under certain circumstances; specifying who will deliver the computer and set it up; and prohibiting the installation or alteration of software or hardware without ANC consent.

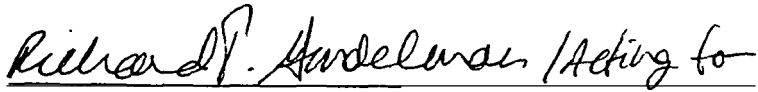
¹ In the alternative, the ANC could authorize the Chair, a designated Commissioner, or a staff member to approve such loans upon written request.

If ANC IC's property is insured, you should also contact your insurance carrier to determine if additional steps need to be taken for the computer to be insured off the office premises. If the ANC has no insurance, the agreement should require the Commissioner either to have insurance to cover the computer while it is in her home or to be responsible for any damage or loss.

If you have any further questions, please contact Annette Elseth, Assistant Corporation Counsel, Legal Counsel Division, at 724-5537, or me at 724-5493.

Sincerely,

ROBERT R. RIGSBY
Corporation Counsel

Handwritten signature of Richard J. Handelman in cursive, reading "Richard J. Handelman / Acting for".

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

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(AL-01-576)