

Government of the District of Columbia

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IN REPLY REFER TO:
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(AC-96-161)

April 17, 1996

Dorothy Miller
Commissioner
Advisory Neighborhood Commission 2-A
2440 Virginia Avenue, N.W.
Washington, D.C. 20037

Re: Notice of pUBLIC meetings of Advisory Neighborhood
Commissions

Dear Commissioner Miller:

This is in reply to your April 15, 1996 letter to Leo Gorman of this Office concerning the statutory requirement of Advisory Neighborhood Commissions to give notice to the pUBLIC of their meetings and the effect of the failure of an Advisory Neighborhood Commission (ANC) to comply with this notice requirement.

section 14(c) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-262(c) (1992), provides as follows:

(c) Each Commission shall give notice of all meetings or convocations to each Commission member 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 may be given by:

- (1) posting written notices in at least 2 conspicuous places in each single-member district within the Commission area;
- (2) Publication ina city or community newspaper;
- (3) Mailing notice to a mailing list; and
- (4) In any other manner directed by the Commission.

(Emphasis added.)

In a November 8, 1993 letter of advice to Audrey J. Hendricks of ANC 4-C, this Office commented as follows on this language:

Thus, while the statute requires that notice of public meetings be given, it affords each ANC flexibility in determining how it shall satisfy the notice requirement. As the statutory language indicates, the obligation to give notice is initially imposed on "[e]ach Commission," rather than on each individual Commissioner. However, under option (4) above, a Commission may direct that each Commissioner provide the required notice within that Commissioner's single-member district.

In a January 6, 1987 letter of advice to J. George Frain of the 18th and Columbia Road Business Association, this Office discussed the language of section 13(d) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-261(d) (1992), which in pertinent part provides that if an ANC adopts written recommendations on a proposed District government action, such written recommendations must be considered and adopted at a public meeting of the ANC with notice of such public meeting having been given in accordance with the above-quoted notice requirement. We concluded that if the ANC had not complied with the meeting notice requirements, then the District government agency to which the written recommendations were submitted would not be legally required to accord them "great weight" under section 261(d) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-261(d) (1992).

Since the notice requirement of section 14(c) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-262(c) (1992), 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.¹ The effect is the same as

In this regard it is relevant to note that section 14(g) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-262(g) (1992), subjects ANCs to the requirements of subsection (a) of section 742 of the District of Columbia Self-Government and Governmental Reorganization Act ("Self-Government Act"), D.C. Code § 1-1504(a) (1992). Subsection (a) of section 742 of the Self-Government Act provides as follows:

All meetings (including hearings) of any department, agency, board, or commission of the District government, including meetings of the Council of the District of Columbia, at which official action of any kind is taken shall be open to the public. No resolution, rule, act, regulation, or other official action shall be effective unless taken, made, or enacted at such meeting.


Thus, under the Advisory Neighborhood Commissions Act of 1975, an ANC's meetings at which official business is transacted must not

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.

Sincerely,

Charles F.C. Ruff

By:


Karen L. Cooper
Director
Office of Legal Counsel

cc: The Honorable Harold Brazil
Chairman
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only be open to the public, but also the public must be given prior notice as to the time and place the meeting will be held.