

# Government of the District of Columbia

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IN REPLY REFER TO:  
OLC:LNG:lng  
(AL-96-513)

November 6, 1996

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

Re: Proposed changes to ANC 2-A's Bylaws

Dear Commissioner Miller:

This is in reply to your October 21, 1996 letter in which you seek the advice of this Office concerning the legal propriety of two resolutions that you describe as proposed amendments to the Bylaws of Advisory Neighborhood Commission (ANC) 2-A.

At the outset, it is relevant to note that the two resolutions in question do not, on their face, propose to amend any part of ANC 2-A's Bylaws. Therefore, if the intent of these resolutions is that they are proposals to amend ANC 2-A's Bylaws, they are not in the proper form.!

One of the resolutions would define what constitutes "sufficient notice" of ANC 2-A's public meetings. It would provide that sufficient notice would be "deemed given to the public and the commissioners upon the following actions:

- 1) The date, location, and time are announced at the end of the current meeting.

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You state in your letter that these two resolutions were "first introduced" at ANC 2-A's September 18, 1996 public meeting. Article XII, section 2 of ANC 2-A's Bylaws appears to provide that in order to amend the Bylaws, an amendment must be approved by a majority vote of the commissioners "after readings at two regularly scheduled business meetings." A "reading" of a proposed amendment to an ANC's Bylaws is an official action. Therefore, if ANC 2-A's September 18, 1996 meeting was not properly noticed, no official action, including a reading of a proposed amendment to ANC 2-A's Bylaws, could legally be taken at that meeting.

- 2) The next meeting is announced in two pUblications that are distributed to the pUblc namely The Northwest Current and The Foggy Bottom News.
- 3) The tape recording in the ANC offices and the posting of Bills announcing the upcoming meeting serve as reminders only and by themselves are not official notice." [Bolding original.]

As you are aware, section 14(c) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-262(c) (1992), provides for the giving of notice of an ANC pUblc meeting by: (1) posting a notice in at least 2 conspicuous places in each single-member district, (2) publishing a notice in a city or community newspaper, (3) mailing notice to a mailing list, and (4) giving notice in any other manner directed by the ANC. section 14(c) also provides that notice must be given at least 7 days in advance of the pUblc meeting, except that shorter notice may be given in case of an emergency or for other good cause. If all of the things listed in the above-quoted resolution are done each month, and are done at least 7 days in advance of ANC 2-A's monthly public meeting, then the notice requirements of section 14(c) would clearly be satisfied. This is not to say, however, that doing something less than all of these things at least 7 days before the meeting would not constitute legally sufficient notice.

The second resolution deals with the removal from the meeting room of a commissioner or member of the public. It would provide that any commissioner or member of the pUblc who "is ruled out of order in accordance with the rules shall cease and desist."<sup>2</sup> If the person thereafter refuses to cease and desist, the person will be asked to leave and if the person refuses to leave, the person "will be escorted to the door by the sergeant at arms or a person so designated by the chair and barred further entry to the chamber until the session is adjourned or the individual(s) are asked to be readmitted by a majority of the commissioners."

This sUbject is not addressed by the statutory law applicable to ANCs. The sUbject is covered in Chapter XX of Robert's Rules of Order. But an ANC can, if it wishes, adopt bylaws that depart from Robert's Rules of Order so long as such bylaws are not inconsistent with statutory requirements. A bylaw provision providing for the ejection of a disorderly person from an ANC meeting (whether the person be an ANC commissioner or a member of the pUblc) is not prohibited by any statutory provision applicable to ANCs. The ejection from the meeting room of a commissioner or a member of the

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<sup>2</sup> I do not interpret this language to be intended to change or to make inapplicable Robert's Rules of Order in regard to the proper procedures to be followed in determining whether a commissioner is "out of order."

Public is a serious action that should not be taken unless clearly necessary for the meeting to continue in an orderly manner. If Robert's Rules of Order are followed by everyone at a meeting, there should be no need to have anyone ejected from a meeting.

You also ask: "... [W]hich agency of the District Government receives these [Bylaw] changes and where [may] a copy of the current ANC 2A Bylaws... be obtained?" section 14(d) (2) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-262 (d) (2) (1992), provides that "[a]n up-to-date copy of each Commission's bylaws and all amendments thereto shall be filed with the Council of the District of Columbia within 30 days of any amendment to the bylaws." To fulfill this requirement, the filing of ANC bylaws and amendments thereto should be with the Secretary to the Council. If the Secretary to the Council does not have an up-to-date copy of ANC 2-A's Bylaws, including all amendments thereto, the only other likely source would be the ANC itself, most likely ANC 2-A's secretary.

Sincerely,



Leo N. Gorman  
Assistant Corporation Counsel  
Office of Legal Counsel

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

Betty King  
Director  
Office of the Ombudsman

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Director  
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Sara Maddux  
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Advisory Neighborhood Commission 2-A