

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:
LCD:RAS:LNG:lng
(AL-94-542)

December 30, 1994

Larry Ray
Commissioner
Advisory Neighborhood Commission 2-B
1825 T street, N.W., Unit 404
Washington, D.C. 20009

Re: Conflict of interest relating to service both
as an ANC commissioner and as a member of the
District of Columbia Alcoholic Beverage Control
Board

Dear Mr. Ray:

This is in response to your December 22, 1994 letter to Principal Deputy corporation Counsel Garland Pinkston, Jr. concerning the situation of Dennis Bass who in November of this year was re-elected to serve as the Advisory Neighborhood Commissioner for single member district 04 in Advisory Neighborhood Commission (ANC) 2-B, and more recently was sworn in as a member of the District of Columbia Alcoholic Beverage Control (ABC) Board.

section 4(a) of the District of Columbia Alcoholic Beverage Control Act, D.C. Code § 25-104(a), as amended on May 24, 1994 by D.C. Law 10-122,1 provides for an ABC Board of 7 members. In order to be a member of the ABC Board, a person must have been a District resident for 3 years prior to appointment and not claimed residence elsewhere, may not hold "full-time employment" with the District government while serving on the ABC Board, and must, prior to appointment, have been active "in issues related to the community impact of ABC establishments...." Because service as an ANC commissioner is not considered employment with the District government (full-time or otherwise), there is nothing in the law that precludes an ANC commissioner from serving as a member of the ABC Board.

D.C. Law 10-122 is entitled the "Alcoholic Beverage Control Act and Rules Reform Amendment Act of 1994."

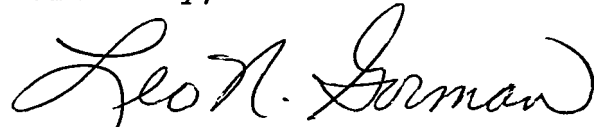
section 1801(a) of the District of Columbia Government Comprehensive Merit Personnel Act (Merit Personnel Act), D.C. Code § 1-619.1(a) (1992), provides:

Each employee of the District government must at all times maintain a high level of ethical conduct in connection with the performance of official duties, and shall refrain from taking, ordering, or participating in any official action which would adversely affect the confidence of the public in the integrity of the District government.

This section is made applicable to members of District government boards and commissions by § 202(3) of the Merit Personnel Act, D.C. Code § 1-602.2(3) (1992).

As you have recognized, simultaneous service by a person as an ANC commissioner and as a member of the ABC Board presents potential conflict of interest problems. To adhere to the ethical standard quoted above and to avoid a conflict of interest or the appearance of a conflict of interest, Mr. Bass, acting as a member of the ABC Board, will be required to recuse himself from participating in any matter before the ABC Board if he participated in that matter as a commissioner of ANC 2-B. Further, so long as Mr. Bass serves as a member of the ABC Board, he will be required to recuse himself, as an ANC commissioner, from participating in any ABC matter that comes before ANC 2-B.

Sincerely,



Leo N. Gorman, Chief
Regulatory Affairs section
Legal Counsel Division

cc: Dennis Bass

Mary Eva Candon
Chairperson
ABC Board