

Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL

JUDICIARY SQUARE

441 FOURTH ST., N.W.

WASHINGTON, D. C. 20001



February 22, 1994

IN REPLY REFER TO:
(L&O:LNG:lng)
94-0S1-L

Russell Gamble
Chairperson, ANC 2-B
1347 Connecticut Avenue, N.W.
suite 2
Washington, D.C. 20036-1801

Re: Mayan ANC newsletter carry paid advertising?

Dear Chairman Gamble:

This is in reply to your January 31, 1994 letter to the Corporation Counsel in which you seek the advice of this Office concerning whether *it is* permissible for an Advisory Neighborhood Commission (ANC) newsletter, paid for with public funds, to "carry paid advertisements by individuals or companies."

The laws applicable to ANCs provide that the funds that an ANC may spend are "public funds" and "funds donated to it." section 738(c) (2) of the District of Columbia Self-Government and Governmental Reorganization Act, D.C. Code § 1-251(c) (2) (1992). More specifically, each ANC receives an annual allocation of appropriated ("public") funds, which is distributed quarterly. See § 16(a) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-264(a) (1992). And under § 13(1) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-261(1) (1992), an ANC may, without Council approval, receive "contributions" from an individual that do not exceeding \$400 per annum; otherwise, "[n]o Commission may solicit or receive funds unless specifically authorized to do so by the Council •••" Money paid to an ANC for advertising in an ANC newsletter would not be "contributions" within the meaning of § 13(1). Therefore, unless specifically authorized by the Council, an ANC may not receive funds for advertising space in its newsletter. In order to authorize an ANC to sell advertising space in its newsletter, the Council would have to pass an act. It could not use a resolution for this purpose. Compare Bill 10-469, the "Authorization for the Solicitation and Acceptance of Grant Monies By Advisory Neighborhood Commission 20 Act of 1994."

In a related question, you ask whether "the newsletter of an individual commissioner, not paid for with D.C. government funds,"

may "solicit and carry paid advertisements by individuals or companies." We interpret the phrase "No Commission" in § 13(1) to apply not only to a Commission but also to individual Commissioners acting in their official capacity as Commissioners. A Commissioner who solicits paid advertising for his or her own single-member-district newsletter would be acting in his or her official capacity as a Commissioner. Accordingly, the answer to this question must be the same as the answer to your principal question, namely unless specifically authorized by an act of the council, an ANC Commissioner may not receive funds for advertising space in that Commissioner's single-member-district newsletter.

In your final question, you ask whether, "in the case of the newsletter of an individual Commissioner, can or should there be a disclaimer that the views and articles contained therein do not represent those of the entire ANC." There can be such a disclaimer. On the other hand, the newsletter of an individual Commissioner may report a decision taken by the entire Commission. One way to handle this situation is to state in the newsletter something like the following: "Unless otherwise indicated, the views expressed in this newsletter do not represent the views of ANC 2-B." Whatever language is chosen, the principal purpose is to eliminate any confusion or misunderstanding.

sincerely,



Garland Pinkston, Jr.
Deputy Corporation Counsel
Legal Counsel Division

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

Regena Thomas
Director
Office of Constituent Services

otis Troupe
D.C. Auditor