

# 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:

L&O:LNG:lng  
(93-387-L)(LCD 780

October 13, 1993

Barbara Beatty  
commissioner, ANC 2-E  
1677 31st street, N.W.  
washington, D.C. 20007

Re: Notice to ANC 2-E regarding Hurt Home

Dear Commissioner Beatty:

This is in reply to your September 21, 1993 letter to the Corporation Counsel in which you state that the Commission on Mental Health Services of the District of Columbia Department of Human Services has failed to give ANC 2-E proper notice regarding its planned use of the Hurt Home, at 3050 R Street, N.W., as a residential treatment center for children with emotional problems.

Under section 13(c) (1) of the Advisory Neighborhood Commissions Act of 1975, as amended, D.C. Code § 1-261(C) (1) (1992), the District government is required to give 30-days notice to an ANC regarding, inter alia, proposed "changes in District government service delivery, and the opening of any proposed facility systems" if such actions are of significance to neighborhood planning and development within that ANC. See generally, Office of the People's Counsel of the District of Columbia v. Public Service Commission of the District of Columbia, D.C. App. No. 92-AA-1247 (August 23, 1993). In the early stages of the District's plan for the use of the Hurt Home and long before it was opened as a residential treatment center for children with emotional problems, ANC 2-E was given the notice contemplated by the above-cited statutory provision. By letter dated August 14, 1987 (copy enclosed), Robert A. Washington, then Commissioner of the Commission on Mental Health Services, wrote to then ANC 2-E Commissioner Roger Pauley concerning the District's plans for the Hurt Home. Further, on August 28, 1987, a notice of the District's plans regarding the use of the Hurt Home was published in the D.C. Register, at 34 DCR 5641 (copy enclosed). Moreover, I have been informed that on September 9, 1987, Dr. Washington and other District government officials appeared at an ANC 2-E public meeting for the purpose of answering citizen questions regarding the District's plans for use of the Hurt Home.

In your letter and in copies of three letters you have enclosed with your letter, there are statements that the Department of Human Services has failed to supply answers to a number of questions asked by ANC 2-E regarding the use of the Hurt Home. You assert that under the Advisory Neighborhood Commissions Act of 1975, as amended, the Department of Human Services is required to answer all of these questions. That is a misinterpretation of that act. After the District government gives notice to an ANC of a proposed action, it is not required to give further notice to the ANC of every subsequent decision it makes to implement that proposed action. Moreover, a District government agency is required to give "great weight" to, Le., address with specificity, only written recommendations adopted by an ANC in a public meeting and submitted to an agency in regard to a proposed action that is subject to the notice requirement! There is no statutory provision that requires the Department of Human Services to supply ANC 2-E with "[a] complete list of all persons, by function, who will work at the ... [Hurt Home]," or with "[a] list of the names, addresses and telephone numbers of all members of the Hurt Home Advisory Board," or with "[a] detailed plan of how the 39 children will get their outdoor exercise (sic) and recreation," or with "[a] complete list of all buses, trucks and vans needed to run this operation including a schedule for all deliveries "such as food and laundry and all trash collections including medical waste." See January 21, 1993 letter from ANC 2-E Commissioner Westy McDermid to Department of Human Services Director Vincent Gray.

In sum, the District government is in compliance with its legal obligations vis-a-vis ANC 2-E in regard to its use of the Hurt Home as a residential treatment center for children with emotional problems.

Sincerely,



Garland Pinkston, Jr.  
Deputy Corporation Counsel  
Legal Counsel Division

Enclosures

cc: The Honorable Harold Brazil  
The Honorable James E. Nathanson  
The Honorable Jack Evans  
The Honorable John Ray  
The Honorable Linda Cropp  
Vincent Gray

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See D.C. Code § 1-261(d) (1992), and Kopff v. District of Columbia ABC Board, 381 A.2d 1372, 1383-1385 (D.C. 1977).