

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
(94-085-L)

March 8, 1994

Marc Thompson
Executive Director, ANC 2-F
P.O. Box 34091
Washington, D.C. 20043

Re: Does the District government provide property insurance coverage for ANC office equipment located in a District government building?

Dear Mr. Thompson:

This is in reply to your February 22, 1994 letter to Leo N. Gorman of this Office in which you inquire about property insurance coverage for Advisory Neighborhood Commission (ANC) office equipment located in a District government building.

You state in your letter that ANC 2-F has obtained office space at 1400 Q street, N.W., in a building owned by the District government. ANC 2-F plans to purchase office equipment and install it in that space. You inquire whether loss of or damage to that equipment would be covered by District government property insurance.

Generally speaking, the self-insurance rule is applicable to government personal property purchased with public funds expended pursuant to appropriations acts of Congress. The quarterly allocations that the District government makes to ANCs are funds authorized to be spent by Congressional appropriations acts. Therefore, office equipment purchased by an ANC with funds from its quarterly allocations is government property for purposes of the self-insurance rule.¹ A second reason why ANC office equipment is considered government property for purposes of the Self-Insurance Rule is that ANC office equipment, like other government property, is subject to the audit controls exercised by the District of Columbia Auditor.

¹ See memorandum of this Office, dated June 6, 1977: "Whether personal property of an ANC is government property and as such subject to the District's self-insurance program," cited at 4 Op.C.C.D.C. 296 (1979).

Thus, in the course of auditing an ANC, the Auditor will examine ANC records to insure that there are no financial or other irregularities relating to the purchase, use, or disposition of the ANC's office equipment. Irregularities uncovered by the Auditor may result in a criminal or civil action against a person found to have acted in violation of law, or in a reduction of the ANC's quarterly allotment.

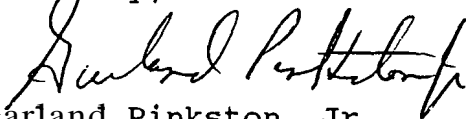
The self-insurance rule may be stated as follows:

...[T]he government is essentially a self-insurer in certain important areas, primarily loss or damage to government property and the liability of government employees insofar as the government is legally responsible or would ultimately bear the loss. In the absence of express statutory authority to the contrary, appropriated funds are not available for the purchase of insurance to cover loss [of] or damage to government property or the liability of government employees.

Principles of Federal Appropriations Law, Chapter 4, § 10a, p. 4-144 (2nd ed. 1991).

In sum, there is no express statutory provision authorizing ANCs to purchase personal property insurance. Therefore, ANC 2-F may not use its quarterly allocations of public funds to purchase property insurance covering its office equipment. The self-insurance rule is applicable to ANC-2-F's office equipment. Under that rule, replacement of ANC 2-F office equipment that is lost or damaged would have to be paid for by ANC 2-F from its own funds. The District government is not legally required to spend money from the General Fund to replace ANC 2-F office equipment that is lost or damaged merely because such equipment was located in a building owned or leased by the District government at the time the equipment was lost or damaged. If the loss of or damage to ANC 2-F office equipment is the result of a willful or negligent act committed by an identifiable person, there may be a cause of action against that person for the recovery of the equipment or the recovery of compensatory damages. In such a circumstance, you should contact this Office.

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

Bruce A. Marshall
Director, Department of Administrative Services

otis H. Troupe
D.C. Auditor