

# Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL

JUDICIARY SQUARE

441 FOURTH ST., N.W.

WASHINGTON, D. C. 20001



January 14, 1994

IN REPLY REFER TO:

L&O:LNG:lng  
(94-003-L)

Patricia Wamsley  
Chairman, ANC 3-C  
2737 Devonshire Place, N.W.  
Washington, D.C. 20008

Re: Is an ANC employee covered by the District's unemployment compensation and workers' compensation laws?

Dear Commissioner Wamsley:

This is in response to your December 29, 1993 letter to the Corporation Counsel in which you request the advice of this Office concerning whether Advisory Neighborhood Commission (ANC) 3-C's staff employee is covered by the District's laws governing unemployment compensation and workers' compensation. You also state in your letter that it is your understanding that ANC 3-C "is required to provide health benefits and life insurance for our employee••••"

Section 16(0) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-264(0) (1992), provides in pertinent part that "[a]n employee of the commission shall be considered an employee of the District of Columbia government for the purposes of title XXI ("Health Benefits") and title XXII ("Life Insurance") of the Merit Personnel Act (D.C. Code, sees. 1-622 et seq. and 1-623 et seq.)." This provision makes ANC employees "eligible for health and life insurance benefits" under those titles of the Merit Personnel Act. See Report of the Committee on Government operations on Bill 8-626, the Advisory Neighborhood Commission Amendment Act of 1990, October 25, 1990, p. 7. Under the law, health and life insurance coverage is automatic unless the employee indicates in writing that he or she does not wish to be covered. See D.C. Code §§ 1-622.7(a) and 1-623.6(b) (1992). For further assistance, you should contact the Office of Personnel's Benefits Administration Division, Room 330 South, 441 4th Street, N.W., Washington, D.C., telephone 727-9625.

For purposes of unemployment compensation and workers' compensation, an employee of an ANC is considered to be a private employee and the employing ANC is considered to be a private employer. We have examined the provisions of both the District of Columbia Unemployment Compensation Act, approved August 28, 1935, 49 Stat.

946, D.C. Code § 46-101 et seq. (1990), and the District of Columbia Workers' compensation Act of 1979, effective JULY 1, 1980, D.C. Law 3-77, D.C. Code § 36-301 et seq. (1993), and have found nothing in those laws that would exempt ANC's and their staff employees from their coverage. section 3(f) of the Unemployment compensation Act, D.C. Code § 46-103(f) (1990), governing employer contributions, provides for separate treatment of the District government and its employees. But, as noted above, ANC employees are not District government employees for purposes of the Unemployment compensation Act. section 2(i)(2) of the Workers' Compensation Act of 1979, D.C. Code § 36-301(9)(B) (1993), exempts from its coverage persons covered by the disability compensation program established by title 23 of the Merit Personnel Act, D.C. Code § 1-624.1 et seq. (1992). Here again, however, ANC employees are not employees of the District government for the purposes of the Merit Personnel Act's disability compensation program. See enclosed Corporation Counsel opinion, dated September 28, 1979, and published at 4 Op.C.C.D.C. 296, which concluded that "the District employees' disability compensation program [as set forth in the Merit Personnel Act] does not apply to ANC staff members...•"

In sum, I conclude ANC 3-C's staff employee is covered by the Unemployment compensation Act and the Workers' Compensation Act. Therefore, ANC 3-C, as the employer, must comply with the requirements of these two laws. For further assistance, you should contact the following offices of the Department of Employment Services: the Office of Workers' Compensation, 1200 Upshur street, N.W. 3rd Floor, Washington, D.C. 20011, telephone 576-6265; and the Office of Unemployment Compensation, 500 C Street N.W., Washington, D.C. 20001, telephone 724-7274.

Sincerely,



Garland Pinkston, Jr.  
Deputy Corporation Counsel  
Legal Counsel Division

Enclosure

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

Regena Thomas  
Director  
Office of Constituent Services

otis H. Troupe  
District of Columbia Auditor