

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of the Corporation Counsel



Office of Government Operations  
Legal Counsel Division

Paul E. Montague  
222 Aspen Street, N.W.  
Washington, D.C. 20012

Re: Grant of \$3,000 Awarded to Takoma Theatre for the Arts

Dear Mr. Montague:

We are in receipt of your letter dated November 26, 2002 and received by the Legal Counsel Division Office on December 3, 2002, requesting "A Legal Opinion on Grants given out by ANC4B in the amount of \$3,000 to The Takoma Theatre for upgrades in Lighting and Renovations."

With regard to your request, you should be aware of the requirements of the law regarding the role of the Office of Corporation Counsel with Advisory Neighborhood Commission activities. Section 1-309.12(d)(3) of the D.C. Official Code provides as follows:

(3) The Mayor shall provide assistance to the Commissions in the following areas:

(A) Legal interpretations of statutes concerning or affecting the Commissions, or of issues or concerns affecting the Commissions. These interpretations are to be obtained from the Corporation Counsel and may be requested directly by any Commission. (Emphasis supplied.)

D.C. Official Code § 1-309.12(d)(3)(A). Thus, if any Commission or individual ANC commissioner needs advice as to the proper interpretation of any statutory provision, the Commission or the individual commissioner may request such advice from the Corporation Counsel. We note that when you sent your letter, you were not an individual commissioner, and, accordingly, did not have standing to make such a request. However, even if we were to provide you an opinion as a courtesy taking into account your status as a commissioner-elect, we note the following.

The Office of the Corporation Counsel is authorized solely to render legal interpretations of statutes affecting or concerning the Commissions or legal interpretations of issues or concerns affecting the Commissions. The Office of Corporation Counsel does not conduct investigations of fact or ferret out the facts.

Based solely upon the facts that you presented to me, we state the following. You have provided a copy of draft minutes of the June 27, 2002 meeting of Advisory Neighborhood Commission 4B which states as follows regarding The Takoma Theatre:

The commission agreed to grant the Takoma Theatre Arts Project \$3,000 for a consultant, equipment and other needs outlined in its written grant. This grant covers the funds made available to Single Member District 4B01, 4B02 and 4B03, of \$1,000 per single member district. Commissioners Green, Lieb, Kidd, Thurston, Austin and Scott voted "yes" to the grant. Commissioner Smallwood abstained due to her role as the president of the arts project board.

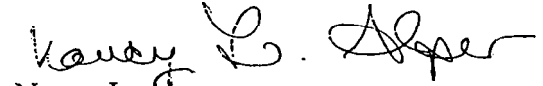
With regard to this document, we note that these are draft minutes, not official minutes of Advisory Neighborhood Commission 4B. Accordingly, we can not opine as to the validity of these minutes. However, examining these draft minutes, we note that Advisory Neighborhood Commission 4B held a meeting on June 27, 2002 at 7:18 p.m. at the 4<sup>th</sup> District Police Station, 6001 Georgia Avenue, N.W. Washington, D.C. We also note that seven members of the Commission were present at the meeting. The draft minutes do not state whether there were any commissioners absent. However, since Advisory Neighborhood Commission 4B has ten commissioners, it appears that a quorum was present. Further, according to these minutes, it appears that six members of the Commission apparently voted for the grant to the Takoma Theatre and one member abstained due to her position on the Takoma Theatre Arts Project Board.

Based solely upon the facts that you have given us and the document which you also gave us, it appears that there was a lawful convening of ANC 4B's public meeting and that there was a lawful vote taken on whether to award a grant to the Takoma Theatre.

With regard to whether this grant meets a public purpose, you have not provided any information regarding this issue. However, as noted in the letter dated May 22, 1986 from the Office of Corporation Counsel that you provided me, "it is within the Auditor's authority to examine ANC expenditures for the purpose of determining whether such expenditures comply with applicable provisions of law, including the 'public purposes' requirement of" D.C. Official Code § 1-309.13(m). Accordingly, the D.C. Office of the

Auditor would have to undertake an investigation of this issue to determine whether the statutory requirements were met.

Very truly yours,

A handwritten signature in black ink, appearing to read "Nancy L. Alper". The signature is fluid and cursive, with a large initial "N" and a long, sweeping tail.

Nancy L. Alper  
Assistant Corporation Counsel