

# 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

(93-100-L) (LCn-6691)

April 26, 1993

Lillian Cooper-Wiggins  
Commissioner  
Advisory Neighborhood Commission 4-C  
4020 8th street, N.W.  
Washington, D.C. 20011

Re: May the chairperson of an Advisory Neighborhood  
Commission only vote to break a tie?

Dear Commissioner Cooper-Wiggins:

This is in reply to your March 23, 1993 letter to the Corporation Counsel requesting the advice of this Office concerning whether the chairperson of an Advisory Neighborhood Commission (ANC) may vote only to break a tie.

section 14(g) of the Advisory Neighborhood Commissions Act of 1975, effective October 10, 1975, D.C. Law 1-21, as amended, D.C. Code § 1-262(g) (1992), provides in pertinent part that "[w]here not otherwise provided, the procedures of the Commission shall be governed by Robert's Rules of Order." section 43 of Robert's Rules of Order Newly Revised (1970) states the following in regard to voting by the "chair":

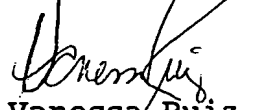
If the presiding officer is a member of the assembly, he can vote as any other member when the vote is by [secret] ballot. \* \* \* In all other cases the presiding officer, if a member of the assembly, can (but is not obliged to) vote whenever his vote will affect the result --that is, he can vote either to break or to cause a tie; or, in a case where a two-thirds vote is required, he can vote either to cause or to block the attainment of the necessary two-thirds.

Thus, if Robert's Rules of Order govern in the instant situation, then the answer to your question would be that the chairperson of an ANC can only vote in circumstances where that vote will affect the outcome. However, Robert's Rules of Order govern the procedures of an ANC only when the statutory provisions applicable to ANCs and the bylaws adopted by an ANC do not provide otherwise.

The chairperson of an ANC is not merely the presiding officer of that ANC, but, as you note in your letter, is also an elected member of the ANCI and, like every other commissioner on that ANC, the chairperson has been elected to represent a "set community," namely a single member district consisting of approximately 2,000 people. See § 4 of the Advisory Neighborhood Commissions Act of 1975, as amended, D.C. Code § 1-254 (1992). There is a well-established rule of law applicable to elected municipal officials: "Where the presiding officer... is a member of the councilor governing body, unless expressly forbidden by law it is generally held that he or she may... vote on all questions as a constituent member." 4 McQuillin Municipal Corporations § 13.25 (3rd ed. 1992). This rule applies to the chairperson of an ANC who, as noted above, is an elected member of the ANC. There is nothing in the Advisory Neighborhood Commissions Act of 1975, as amended, that expressly provides that an ANC chairperson may not vote on all questions coming before the ANC in the same manner as any other elected commissioner. Therefore, the Advisory Neighborhood Commissions Act of 1975 must be construed as conferring upon an ANC chairperson voting rights equal to those possessed by the other members of the ANC. Accordingly, it must be concluded that in regard to the voting rights of the chairperson of an ANC, the Advisory Neighborhood Commissions Act of 1975 provides otherwise than Robert's Rules of Order.

In sum, the chairperson of an ANC 4-C has the same voting rights as any other commissioner of ANC 4-C.

Sincerely,



Vanessa Ruiz  
Deputy Corporation Counsel  
Legal Counsel Division

cc: The Honorable Harold Brazil  
Chairman, Committee on Government Operations

Regina Thomas  
Director, Office of Constituent Services