

Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL
DISTRICT BUILDING
WASHINGTON, O. C. 20004



IN REPLY REFER TO:
LCD:L&O:LNG:mbb
(85-75) (LCD-601)

April 8, 1985

Virgil L. Thompson
Commissioner
Advisory Neighborhood Commission 5A
14th and Irving Streets, N.E.
Washington, D.C. 20017

Dear Mr. Thompson:

This is in reply to your letter of March 8, 1985 requesting advice as to whether a conflict of interest is created by the March 4, 1985 letter from attorney Raymond M. Jacobson to Ms. Mozelle Watkins, the Chairperson of ANC 5A.

There appears to be no conflict of interest created by Mr. Jacobson's letter. It is commonplace and proper for an ANC and an applicant seeking a special exception or variance from the D.C. Board of Zoning Adjustment (BZA) to negotiate informally and resolve points of dispute concerning the application. If agreement can be reached, the BZA applicant gains by enlisting ANC support for the application, or at least avoids having to contend with ANC opposition. The ANC typically gains by extracting from the applicant concessions or promises which often are included in the BZA order granting the application as conditions which must be satisfied by the applicant in order to take advantage of the relief granted.

The March 4, 1985 letter from Mr. Jacobson to Chairperson Watkins merely purports to summarize the agreement Mr. Jacobson believes has been reached between area citizens, representatives of ANC 5A, and Capitol Datsun, Inc. with respect to Capitol's BZA application. In this letter, Mr. Jacobson does not purport to speak for ANC 5A; ANC 5A must speak for itself. If ANC 5A disagrees with any statement contained in the letter, it should so inform Mr. Jacobson, preferably in writing so there is a clear record of its position. In this regard, it should be remembered

that an agreement between area citizens or a few members of ANC 5A and Capitol Datsun, Inc. does not constitute an official ANC 5A position or "recommendation" to which the BZA is legally required to give "great weight" under section 13(d) of the Advisory Neighborhood Commissions Act of 1975, D.C. Law 1-21, D.C. Code, sec. 1-261(d) (1981). The only ANC 5A recommendation which the BZA must give "great weight" to is the properly filed written recommendation adopted by the ANC in accordance with the procedural requirements of section 13(d) of the Act, D.C. Code, sec. 1-261(d) (1981).

Sincerely,

A handwritten signature in cursive script that reads "Margaret L. Hines". The signature is written in black ink and is positioned above the typed name.

Margaret L. Hines
Ethics Counselor, D.C.