

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:
OLC:LNG:lng
(AL-96-614)

December 5, 1996

Mozelle Ellis watkins
Commissioner
Advisory Neighborhood Commission 5-A
Slowe School Demountable
14th & Irving Streets, N.E.
Washington, D.C. 20017

Re: Filling of vacancy in ANC 5A-11

Dear Commissioner Watkins:

This is in reply to your December 3, 1996 letter to the Corporation Counsel requesting advice as to whether you, as the current incumbent representing Single Member District (SMD) 11 in Advisory Neighborhood Commission (ANC) 5-A, are required by District of Columbia law to continue to represent that SMD beyond the expiration of your current two year-term because of the facts that in the November 5, 1996 ANC elections you did not run for reelection and no other person was elected to succeed you as the SMD 11 representative of ANC 5-A.

In this regard, you seek clarification of the intent of section *B(d)* (5) of the Advisory Neighborhood Commissions Act of 1975, as amended by section 2 of the Advisory Neighborhood Commission Vacancy Amendment Act of 1995, effective October 26, 1995, D.C. Law 11-66, D.C. Code § 1-257 (d) (5) (1996 Supp.).

section *B(d)* (5) provides as follows:

Each person appointed or elected to fill a vacancy shall serve until a successor has been certified and sworn in pursuant to subsection (b) of this section.
[Emphasis added.]

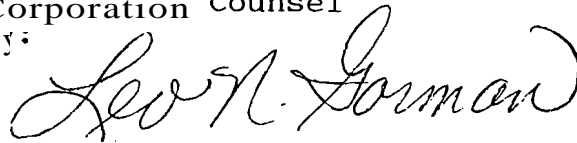
It does not appear that this language applies to you because you were not "appointed or elected to fill a vacancy." Rather, the records of the Board of Elections and Ethics indicate that you were elected in the general election held in November 1994 to serve a full two-year term of office beginning on January 2, 1995. Thus,

because the above-quoted statutory language appears to be inapplicable to you, that language cannot be interpreted to require you to continue to serve as the representative of ANC 5A-11 beyond the expiration of your present two-year term of office. Not only are you not required to continue to serve beyond the expiration of your current term, but you may not do so. According to the Board of Elections and Ethics, your present term of office will expire on January 2, 1997. Because (as the Board of Elections and Ethics has confirmed) no person was elected last month to succeed you in office, there will be a vacancy in the office of ANC 5A-11 as of January 2, 1997. The Board of Elections and Ethics will then initiate steps to have that vacancy filled pursuant to the process set forth in section 8(d) (6) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-256(d) (6) (1996 Supp.).

Sincerely,

Charles F.C. Ruff
Corporation Counsel

By:



Leo N. Gorman
Assistant Corporation Counsel
Office of Legal Counsel

cc: The Honorable Harold Brazil
Chairman
committee on government Operations
council of the District of Columbia

Betty King
Director
Office of the Ombudsman

Ayo Bryant
Director
Office of Diversity and
Special Services

Alice P. Miller, Esquire
General Counsel
Board of Elections & Ethics

Joseph L. Bowser
chairperson
ANC 5-A