

Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL
JUDICIARY SQUARE
441 FOURTH ST., N.W.
WASHINGTON, D. C. 20001

FILE



IN REPLY REFER TO:

Prepared by: OLC:LNG
(AC-98-110)

April 14, 1998

Derrick Barnes
Commissioner
Advisory Neighborhood Commission 6-A
suite 1-515
700 Constitution Avenue, N.E.
Washington, D.C. 20002

Re: Which commissioners of ANC 6-A should carry out the functions of the chairperson and the other officers pending the results of the new election of officers? Are the official actions taken by the officers elected to office in December of 1997 legally valid?

Dear Commissioner Barnes:

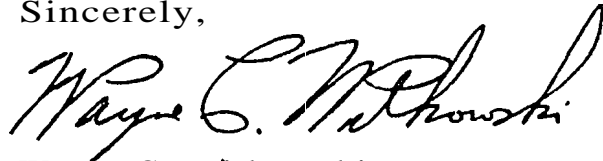
This is in response to your April 3, 1998 letter in which you seek the advice of this Office concerning the above-stated questions. These questions have arisen in Advisory Neighborhood Commission (ANC) 6-A as a result of our letter of March 26, 1998. In our letter of March 26, 1998, we advised that ANC 6-A's holding of its election of officers for 1998 in December of 1997 violated the Advisory Neighborhood Commissions Act of 1975, because that act requires the election of officers be held in January of each year. We advised that ANC 6-A should hold a new election of officers.!

The official actions of those commissioners of ANC 6-A elected to office in December of 1997 are valid because those commissioners hold the status of de facto officers of ANC 6-A. See generally, 3 McQuillin, Municipal Corporations § 12.106 (3rd ed. 1990).

In holding its election of officers in December of 1997, a non-general-election year, ANC 6-A was following a provision of its bylaws. This provision should be amended to conform to the statutory requirement that the election of officers be held in January of each year (regardless of whether the preceding year was a general election year).

Following the same rationale, and to avoid disruption of the timely and efficient conduct of essential ANC 6-A business, I conclude that those commissioners elected to office in December of 1997 may continue to serve in the positions to which they were elected pending the outcome of the new election of officers at the next regularly scheduled meeting. Indeed, ANC 6-A need not wait until its regularly scheduled May meeting to hold a new election of officers. It may conduct such an election earlier, at a properly noticed special meeting called for that purpose.

Sincerely,

A handwritten signature in black ink, appearing to read "Wayne C. Witkowski". The signature is fluid and cursive, with a large, sweeping initial "W".

Wayne C. witkowski
Director
Office of Legal Counsel

The Honorable Kathleen Patterson
Chairperson
Committee on Government Operations
Council of the District of Columbia

william Vazquez
Director
Office of the Ombudsman

Ayo Bryant
Director
Office of Diversity and Special Services

Deborah K. Nichols
Interim D.C. Auditor