

Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL

JUDICIARY SQUARE

44\ FOURTH ST.. NW.

WASHINGTON, D. C. 20001



IN REPLY REFER TO:
LCD: L&O : LNG: In.
(AL-95-056)

February 3, 1995

Gregory J. Ferrell
Commissioner
Advisory Neighborhood Commission 6-A
618 19th street, N.E.
Washington, D.C. 20002

Re: Appointment of parliamentarian

Dear Commissioner Ferrell:

This is in reply to your January 20, 1995 letter in which you seek the advice of this Office concerning whether you were properly appointed as the parliamentarian of Advisory Neighborhood Commission (ANC) 6-A.

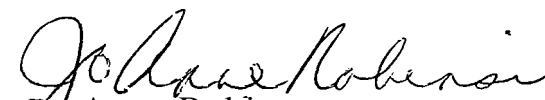
As stated in your letter, the facts are as follows: At ANC 6-A's regular monthly meeting on January 19, 1995, the Chairperson was absent and his duties were assumed by the Vice Chairperson. A Commissioner made a motion that the Acting Chairperson appoint you as the parliamentarian with the consent of the Commission members present at the meeting. The Chairperson "ruled that the procedure was out of order because he did not want to assume the responsibility of accepting the recommendation by consent of the Commission. The Commission overrule[d] the Chair by voting with eight Commissioners supporting the appointment with two nay votes." You ask whether you may now properly assume the office of parliamentarian of ANC 6-A.

Article IV, section 16 of ANC 6-A's bylaws provides in pertinent part that "[t]he chair, with the advice and consent of the Commission, shall appoint a parliamentarian." This means that the initial proposal as to who should be ANC 6-A's parliamentarian must come from the chairperson of the ANC (or the vice chairperson acting in chairperson's place in the latter's absence). Thus, the procedure called for by Article IV, section 16 of ANC 6-A's bylaws is that the chairperson nominate a person for the office of parliamentarian and submit that nomination to the Commission for its approval or disapproval. If the nomination is disapproved, the chairperson must submit a second nomination, and if that nomination

is disapproved, a third, and so on until a nomination is approved by the Commission.! Therefore, the procedure followed by ANC 6-A on January 19, 1995 to appoint a parliamentarian was not in compliance with Article IV, section 16 of ANC 6-A's bylaws. Accordingly, it would not be proper for you to assume the duties of the office of parliamentarian of ANC 6-A at this time.

You also ask for advice as to what "authority the Vice Chair has when the Chair is absent[t] during our Commission meetings." section 14(e) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-262 (e) (1992), provides in pertinent part that "[t]he Chairperson shall serve as convener of the Commission and shall chair the Commission meetings. The vice-chairperson shall fulfill the obligations of the Chairperson in the Chairperson's absence." Article IV, Section 13(b) of ANC 6-A's bylaws provides that "[i]n the chairperson's absence, or when the chairperson wishes to give up the chair, the vice chairperson shall act as chairperson." This bylaw provision is consistent with the quoted statutory language. In short, when the vice chairperson is properly filling in for the chairperson, the former may exercise all the powers of the latter.

Sincerely,


 Jo Anne Robinson
 Deputy Corporation Counsel
 Legal Counsel Division

cc: The Honorable Harold Brazil
 Chairman
 Committee on Government Operations
 Council of the District of Columbia

Adam Dennis
 Director
 Office of Constituent Services

Gregory Keith Mitchell
 Chairperson, ANC 6-A

Analogously, by statute, the Mayor has the power to appoint persons to serve as subordinate agency heads of District government agencies, and the power to appoint persons to serve on District government boards and commissions. By statute, many of these appointments are SUBJECT to the advice and consent of the council of the District of Columbia. See D.C. Code § 1-633.7 (1992). The Council, however, cannot exercise its advice and consent authority unless it has before it a nomination submitted to it by the Mayor.