

Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL

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WASHINGTON, D. C. 20001



IN REPLY REFER TO:

OLC:LNG:lng

(AL-97-074)

February 7, 1997

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

Re: Tie vote in election of commissioner to serve
as treasurer of ANC 6-A

Dear Commissioner Ferrell:

This letter is in response to your telephone call of this date in which you informed me that at a recent Advisory Neighborhood Commission (ANC) 6-A public meeting there was conducted an election for the officer of ANC 6-A treasurer. You informed me that eight commissioners attended the meeting, but that the vote for treasurer was four to four with the result that no new treasurer was elected. You asked for advice as to how ANC 6-A should deal with this situation.

Section 14(e) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-263(e) (1992), provides in pertinent part that "[e]ach Commission shall elect from among its members at a public meeting of the Commission held in January of each year a Chairperson, vice-chairperson, secretary, and treasurer." In a letter of advice, dated January 9, 1992, this Office advised ANC 2-E in regard to a tie vote for the office of chairperson. In that letter, we advised that if a tie vote prevents the election of a commissioner to one of these offices, then the commissioner who held that office during the previous year may continue to serve in that office until a successor is elected. In the meantime, the ANC has a continuing duty to attempt to resolve the deadlock. The most obvious method of resolving the deadlock is to keep conducting elections until one commissioner receives the requisite number of votes, *i.e.*, the favorable votes of a majority of a quorum present at a public meeting.

You informed me that at this time ANC 6-A has eleven commissioners. Thus, with an odd number of commissioners, if all of them attend the next public meeting, or if nine of them attend, ANC 6-A should be able to conduct an election for the office of treasurer without the result being a tie vote.¹

ANC 6-A does not have to wait until its next regularly scheduled monthly public meeting in order to conduct another election for the office of treasurer. It may call a special public meeting for this purpose so long as proper notice of the meeting is given in accordance with the notice requirements of section 14(c) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-262(c) (1992) ² — —

Sincerely,



Leo N. Gorman
Assistant Corporation Counsel
Office of Legal Counsel

cc: The Honorable Kathleen Patterson
Chairperson, Committee on Government Operations
council of the District of Columbia

Ayo Bryant
Director
Officer of Diversity and Special Services

Anthony S. Cooper
D.C. Auditor

ANC 6-A has 14 single member districts. Therefore the minimum number of ANC 6-A commissioners who must be present at a public meeting to constitute a quorum is 8. The fact that there are currently 3 vacancies in ANC 6-A does not change this minimum quorum number. Once a quorum is present, the votes of a majority of those present for a particular candidate would be sufficient to elect that commissioner to the office in question.

² section 9 of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-258 (1992), provides that if two or more competing candidates for a single-member district seat in an ANC receive the same number of votes, the Board of Elections and Ethics shall resolve the tie by following the procedures set forth in D.C. Code § 1-1314(c) (1996 SUPP.), which provides that such candidates "shall cast lots before the Board at 12:00 noon on a date to be set by the Board." Section 9 of the Advisory Neighborhood Commissions Act of 1975 does not apply to the election of officers by an ANC. An ANC could, however, through an amendment to its bylaws, make such a tie-breaking procedure applicable to its election of officers.