

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE CORPORATION COUNSEL

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Office of Government Operations
Legal Counsel Division

March 21, 2001

Ivette Basterrechea
Chairperson
ANC6A

Gregory J. Ferrell
Commissioner
ANC6A

Phillip Edwards
Commissioner
ANC6A

Marvin Fields
Commissioner
ANC6A

Lamar McIntyre
Commissioner
ANC6A

Daniel Pernel
Commissioner
ANC6A

Re: Notice of March 1, 2001 Advisory Neighborhood Commission Meeting

Dear Commissioners:

This responds to the March 2, 2001 letter from Commissioner Basterrechea, and the March 6, 2001 letter signed by Commissioners Ferrell, Edwards, Fields, McIntyre, and Pernel. You seek advice regarding the validity of the notice of the regular Advisory Neighborhood Commission (ANC) 6A meeting held on March 1, 2001. The facts, as related in the two letters, are that ANC 6A normally conducts its regular meetings at the ANC office. On February 24, 2001 the Chair received a request from a Commissioner to move the March 1, 2001 meeting to a larger space because of the expectation of a large public turnout due to one or more items on the agenda. After discussing the issue with several other Commissioners, the Chair secured a new location on February 27, 2001. Subsequently, a notice of the changed location was sent by e-mail to all Commissioners, the ANC 6A e-mail group, neighborhood associations, and publishers of several

community newspapers (one of which posted it on its web site). In addition, signs were posted on the ANC office door and a volunteer stayed at the office to direct persons to the new location. Notices of the original and changed meeting locations were never posted in the single member districts (with the exception of the notice posted on the ANC office door), nor were they published in a newspaper. The five Commissioners who objected to the late notice of a changed location met at the ANC office during the scheduled time of the meeting. The other Commissioners attended the meeting at the new location, along with about 80 public attendees.

Notice of ANC meetings is governed by section 14(c) of the Advisory Neighborhood Commissions Act of 1975, effective October 10, 1975, D.C. Law 1-21, D.C. Code § 1-262(c), as amended by the Comprehensive Advisory Neighborhood Commissions Reform Amendment Act of 2000 ("ANC Reform Act"), effective June 27, 2000, D.C. Law 13-135, which provides:

Each Commission shall give notice of all meetings or convocations to each Commissioner, individuals with official business before the Commission, and residents of the Commission area no less than 7 days prior to the date of such meeting. Shorter notice may be given in the case of an emergency or for other good cause. Notice of regular and emergency meetings must include, but is not limited to, at least 2 of the following:

- (1) Posting written notices in at least 4 conspicuous places in each single-member district within the Commission area;
- (2) Publication in a city or community newspaper;
- (3) Transmitting or distributing notice to a list of residents and other stakeholders in the community; and
- (4) In any other manner approved by the Commission.¹

If, as you describe, the notice of the meeting with the revised information as to location was made by e-mailing the information to a list of persons, posting a sign on the door, and having a volunteer remain at the original location to direct persons to the new location, then the notice was inadequate in this case. E-mailing the new location to a list of persons would qualify as "transmitting or distributing notice to a list of residents and other stakeholders in the community" under the statute. However, posting a sign on the office door, having a volunteer direct persons to the new location, and posting the new location on a web site would only be valid forms of notice if they had been approved by the Commission. Since the ANC's by-laws do not allow for such forms of notice, and since the ANC did not approve those forms of notice, they are not valid

¹ Article V., Section 4(a) of ANC 6A's by-laws requires that notice of regular meetings be given "by posting written announcements in at least two conspicuous places in each single-member district." Because of the passage of the ANC Reform Act, the by-laws are now out of date and should be revised.

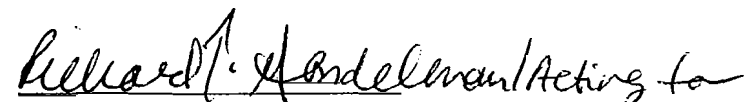
forms of notice under the law.² Thus, the ANC only properly provided one type of notice, instead of the statutorily required two.

The result of the ANC's failure to comply with the statutory notice requirement is that no official action may be taken at the meeting. *See generally*, April 17, 1996 letter from Karen L. Cooper, Director, Office of Legal Counsel to Dorothy Miller, Commissioner, ANC 2A (attached). Therefore, any action taken by ANC 6A at the March 1, 2001 meeting is invalid.³ In addition, Article V., Sec. 3(a) of ANC 6A's by-laws provides that the Commission, not the Chairperson, designates the time and place of regular meetings. Therefore, under the existing by-laws the Chairperson cannot unilaterally change the place of a regular meeting.

If you have any questions with regard to this matter please contact Annette Elseth, Assistant Corporation Counsel, Legal Counsel Division at 724-5537.

Sincerely,

ROBERT R. RIGSBY
Corporation Counsel


BY: DARRYL G. GORMAN
Senior Deputy Corporation Counsel for
Government Operations

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(AL-01-169)

Attachments

² Commissioner Basterrechea asserts that good cause existed for shorter notice of a change in the meeting location. I do not reach the issue of good cause here because even if good cause exists for a shorter notice period, the shortened time period for notice would not affect the type and amount of notice required by law.

³ Any actions taken at the meeting of the objecting Commissioners are also invalid because notice was not properly given that the meeting would take place at the office, and because no quorum was present at the meeting.