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# Government of the District of Columbia

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IN REPLY REFER TO:  
L&O:LNG:lng  
(93-348-L)

September 10, 1993

Albrette S. Ransom  
Commissioner ANC 6-B  
1508 East Capitol street, N.E. #2  
Washington, D.C. 20003

Re: Mayan ANC commissioner be employed by the  
commission of which he or she is a member?

Dear Commissioner Ransom:

This is in response to your September 8, 1993 letter to Mr. Leo Gorman of this Office. In that letter you ask a number of legal questions relating to the operation of your Advisory Neighborhood Commission (ANC). Your questions and the answers to those questions are as follows:

Question: Mayan ANC hire one of its own commissioners to do office work either as an independent contractor or as an employee?

Answer: The question of whether an ANC may hire one of its own members to do its office work was addressed in an April 5, 1989 letter (copy enclosed) from this Office to Jack Evans. There has been no intervening statutory law enacted that would change the advice rendered in that letter. The April 5, 1989 letter should be read together with our April 28, 1991 letter (a copy of which you have) to Councilmember James E. Nathanson regarding the hiring of a family member of an ANC commissioner. To summarize the advice given in those letters: the hiring of such persons is not prohibited by law; on the other hand, as a matter of general policy, such persons should not be hired because of the potential for conflicts of interest.

The question of whether a person who does office work for an ANC may be treated as an "independent contractor" as opposed to an employee was addressed in our April 8, 1993 letter (copy enclosed) to Patricia Wamsley of ANC 3-C. To supplement the advice given in that letter, I am enclosing a copy of an article entitled "Defining the Employee: Common-Law Rules," by Ronald L. More of the Internal Revenue Service.

Question: Has there ever been a law that forbid an ANC commissioner from being employed by a Commission?

Answer: No.


Question: In the hiring of staff employees, is there any law in the District that prohibits an ANC from giving preference to persons who reside within the ANC's boundaries?

Answer: No.

Question: What are the parameters for a contract with a person to do ANC office work? Can the person be contracted to do the same work on a daily basis, throughout a fiscal year, or must there be a designated time period?

Answer: The statutory law governing ANCs does not speak to this question. Therefore, the ANCs may tailor the terms of an employment contract between its commissioners and a person it hires to do office work to suit the ANC's particular needs. In regard to the hiring of staff employees, the statutory law provides only that each "Commission shall establish position descriptions for employees that shall at a minimum broadly define the qualifications and duties of the employees" and that "[a] commission employee shall serve at the pleasure of the Commission." D.C. Code § 1-264(0) (1992).

Sincerely,



Garland L. Pinkston  
Deputy corporation Counsel  
Legal Counsel Division

Enclosures

cc: The Honorable Harold Brazil  
Council of the District of Columbia

Regina Thomas  
Office of Constituent Services

otis Troupe  
D.C. Auditor

Jamie Platt  
Chairman, ANC 6-B