

Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL

DISTRICT BUILDING

WASHINGTON, D. C. 20004



IN REPLY REFER TO  
L&O:BFG:ls

Sep,tember 28, 1979

Mrs. RaenelleHumbles Zapata  
Office Manager, ANC 6B  
921 Pennsylvania Avenue, S.E.  
Suite 303  
Washington, D.C. 20003

Dear Mrs. Zapata:

This is in reply to your request for, the views of this Office as to what type of workmen's compensation coverage applies to staff members employed by your Advisory Neighborhood Commission (ANC).

This Office has concluded that the ANCs are characterized by indicia which are common to elements of the District Government (see memoranda to Martin K. Schaller, "Whether personal property of an ANC is government property and as such subject to the District's self insurance program", dated June 6, 1977, and "Whether an Advisory Neighborhood Commission (ANC) Commissioner must pay a license fee for a commission as a notary public", dated August 4, 1978, and letter to James W. Slicer, dated July 19, 1977, copies of which are enclosed).

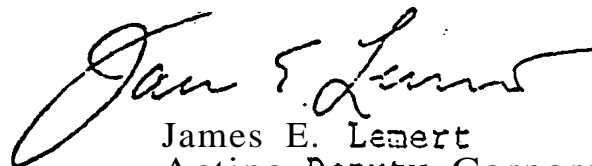
However, there is no indication in the ANC enabling legislation (see D.C. Code, sec. 1-171) or in D.C. Laws 2-21 and 2-58 (see D.C. Code, secs. 1-171a-r) which implement the enabling legislation, that ANC staff members are to be regarded as "District employees". Such ANC staff members are "hired by the Commission and shall serve at the pleasure of the Commission" (D.C. Code, sec. 1-171 1 (c) and n --- may be hired on a full-time or part-time basis and for an indefinite or for a definite term..." (D.C. Code, sec. 1-171 1(g)). Thus, the ANC legislation specifically designates ANC staff members as employees of the ANCs, and not as District Government employees,

Until the enactment of the District of Columbia Government Comprehensive Merit Personnel Act of 1973 (D.C. Law 2-139), District employees were covered by the Federal Employees' Compensation Act (see 5 U.S.C. §8101(1)). However, on May 3, 1979, sixty days after the effective date of D.C. Law 2-139, all functions of the Secretary of Labor in chapter 81 of title 5 of the United States Code (relating to the employee compensation program) with respect to claims filed by District government employees for work-related injuries were transferred to the Mayor of the District of Columbia, pursuant to sec. 204(e) of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 36-504).

Title XXIII of D.C. Law 2-139 establishes a disability compensation program for District government employees (see sec. 2301(a) which is substantively similar to the Federal employees' compensation program. The requirement that the "employee" covered by Title XXIII be an employee of the District government precludes the inclusion of ANC staff members within the scope of the disability compensation program since, as discussed above, ANC staff members are not District government employees..

Although the District employees' disability compensation program does not apply to ANC staff members, the workmen's compensation system created by the Longshoremen's and Harbor Workers' Compensation Act (chap. 18, title 33, U.S. Code) is applicable to such employees. That Act, made applicable to employees of "an employer carrying on any employment in the District of Columbia" by D.C. Code §36-S01 (1973 ed.) is administered by the U.S. Department of Labor. I would urge you to contact that Department for information related to the financial obligation of your ANC for workmen's compensation coverage of ANC staff members.

Sincerely yours,



James E. Lemert  
Acting Deputy Corporation Counsel  
Legal Counsel Division

Enclosures