

Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL

JUDICIARY SQUARE

441 FOURTH ST., N.W.

WASHINGTON, D. C. 20001



IN REPLY REFER TO:

OLC:LNG:lng
(AL-96-075)

March 12, 1996

Russell A. Smith
District of Columbia Auditor
The Presidential Building
415 12th Street, N.W., Room 210
Washington, D.C. 20004

Re: May the chairperson of an Advisory Neighborhood Commission be employed as the staff person of that commission?

Dear Mr. smith:

This is in reply to your February 22, 1996 letter to the Corporation Counsel in which you request the advice of this Office concerning whether it is a conflict of interest for the chairperson of an Advisory Neighborhood Commission (ANC) to serve as the staff person of that ANC.

As you have noted in your letter, on April 5, 1989, this Office advised Jack Evans, then chairperson of ANC 2-B, that it was not a violation of District of Columbia law for an ANC commissioner also to serve as the compensated staff employee of the ANC, so long as the compensation paid to the ANC commissioner was "solely for staff duties for the performance of which ANC 2-B would otherwise compensate a person who is not an ANC 2-B commissioner..... The statutory law governing ANCs and conflicts of interest has not materially changed since the issuance of our April 5, 1989 letter to Mr. Evans. Thus, we have no reason to overrule this advice. In this regard, we do not believe that the fact that the commissioner in question is an officer of the ANC warrants a conclusion different from that reached in 1989.¹

section 16(0) of the Advisory Neighborhood Commissions Act of 1975, as amended, D.C. Code § 1-264(0) (1995 Supp.), provides in pertinent part that an ANC "may employ any person necessary to provide administrative support to the commission" (emphasis added). Thus, ANCs are not required to employ a staff person but may decide that the administrative work of the ANC shall be performed by one or more of the commissioners themselves. This indicates that the

As we indicated in our letter to Mr. Evans, the fact that District of Columbia law does not prohibit an ANC commissioner from serving as the compensated staff person of the ANC does not mean that there are no possible conflict of interest situations that could arise from one person's performing both of these roles. Thus, for example it would be a conflict of interest for a commissioner to vote in his or her role as a commissioner to hire himself or herself as the compensated staff person of the commission. Such an action would violate D.C. Code § 1-1461(b) (1992)² and 18 U.S.C. § 208 (acting in an official capacity in a matter in which the person has a private financial interest). However, the commissioner can, in this example, adequately deal with such a potential conflict of interest by recusing himself or herself from voting on any matter coming before the Commission that affects his or her employment as the commission's staff person.

Sincerely,



Karen L. Cooper
Director
Office of Legal Counsel

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

Lavonna Johnson
Director
Office of Constituent services

Ayo Bryant
Director
Office of Diversity and Special Services

Council did not view as inherently incompatible the functions of a commissioner and the functions of a person who provides "administrative support to the Commission."

² The conflict of interest provisions of section 601 of the District of Columbia Campaign Finance Reform and Conflict of Interest Act, approved August 14, 1974, 88 Stat. 465, D.C. Code § 1-1461 (1992), have been made expressly applicable to ANC commissioners by section 602(i)(2) of that Act, D.C. Code § 1-1462 (i) (2) (1992).