

# 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:  
LCD:L&O:LNG:lng  
(AL-95-538)

October 16, 1995

Carolyn Johns Gray  
President  
Frederick Douglas Community Improvement Council  
2009 18th street, S.E.  
Washington, D.C. 20020

Re: Does the chairperson of an Advisory Neighborhood Commission have the legal right to close it?

Dear Ms. Gray:

This is in reply to your October 4, 1995 letter to this Office in which you inquire whether this Office "has jurisdiction over the closing" of an Advisory Neighborhood Commission (ANC). You also ask what laws govern the ANCs and whether the chairperson of an ANC has "the right to close it." Finally, you inquire about the procedure for bringing criminal charges against an ANC commissioner.


The Office of the Corporation Counsel does not have general regulatory or enforcement authority over ANCs. The principal function of the Office of the Corporation Counsel vis-a-vis ANCs is to render "[I] legal interpretations of statutes concerning or affecting the Commissions, or of issues or concerns affecting the Commissions." section 15(d) (3) (A) of the Advisory Neighborhood Commissions Act, D.C. Code § 1-263(d) (3) (A) (1992).

ANCs are governed by section 738 of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, Public Law 93-198, 87 Stat. 824, D.C. Code § 1-251 (1992), and by the Advisory Neighborhood Commissions Act of 1975, as amended, D.C. Code §§ 1-252 to 1-270 (1992).

If by the word "close" you mean shut down the operations of an ANC, then the answer is that the chairperson of an ANC has no legal right to close the ANC of which he or she is the chairperson. In this regard, section 14(b) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-262(b) (1992), mandates that each ANC "meet in public session at regular intervals at least 9 times per year at locations that are designed to reasonably accommodate the residents of the Commission area, depending on the issues to be

considered by the Commission." And section 14(e) of that act, D.C. Code § 1-262(e), provides in pertinent part that "[t]he Chairperson shall serve as convener of the Commission and shall chair the Commission meetings." (Emphasis added.) Thus, the operations of an ANC may not legally be shut down, either by the chairperson of that ANC or by anyone else.! A writ of mandamus would lie against an ANC commissioner who refuses to perform his or her mandatory statutory duties as a commissioner or as an officer of an ANC.<sup>2</sup> An ANC commissioner who refuses to perform his or her official duties should resign from office. In the absence of resignation, an officer of an ANC (such as a chairperson, secretary, or treasurer) can be removed from office by the other commissioners of the ANC. And an ANC commissioner may be removed from office as a commissioner through the recall process, as set forth in section 17 of the District of Columbia Election Act, approved August 12, 1995, as amended, D.C. Code § 1-1321 (1992 and 1995 Supp.).

As to the bringing of criminal charges against an ANC commissioner, the United States Attorney for the District of Columbia prosecutes criminal violations of the laws of the District of Columbia that are felonies and also prosecutes most of the serious misdemeanors. If you have evidence that an ANC commissioner has committed a criminal offense, you should present that evidence to the United States Attorney for the District of Columbia.<sup>3</sup>

Sincerely,  
 Charles F.C. Ruff  
 Corporation Counsel  
 by:   
 Karen L. Cooper, Chief  
 Legislation & Opinions section  
 Legal Counsel Division

---

If the chairperson of an ANC convenes a public meeting, but no official action can be taken at that public meeting because of the absence of a quorum, the chairperson has nevertheless fulfilled his or her obligation under section 14 of the Advisory Neighborhood Commissions Act of 1975 to convene public meetings. Moreover, such a meeting would count toward the fulfillment of the statutory requirement that at least 9 public meetings be held each year. See Robert's Rules of Order Newly Revised, 9th ed. 1990. § 139 (pp. 342).

<sup>2</sup> A writ of mandamus is a court order directing a person, such as a government official, to perform a duty mandated by law.

<sup>3</sup> The failure of an ANC chairperson to convene public meetings in compliance with the provisions of section 14 of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-262 (1992), is not a criminal offense.

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

Lavonna Johnson  
Director  
Office of Constituent services

Ayo Bryant  
Director  
Office of Diversity and Special Services

Russell A. smith  
D.C. Auditor