

Government of the District of Columbia

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OFFICE OF THE CORPORATION COUNSEL.

DISTRICT BUILDING

WASHINGTON, D. C. 20004



IN REPLY REFER TO:

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(86-249)(LCD-1784)

October 21, 1986

Otis H. Troupe
District of Columbia Auditor
415 12th Street, N.W., Room 210
Washington, D.C. 20004

Re: Grant by Advisory Neighborhood
Commission to Defray Private
Association's Legal Fees Incurred
in a Board of Zoning Adjustment Case.

Dear Mr. Troupe:

This is in response to your letter, dated July 14, 1986, asking for legal advice on the subject question.

Your letter references a letter of the Corporation Counsel, dated April 19, 1977, which is published at 2 Ope C.C. D.C. 17. Citing section 738(c) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, D.C. Code § 1-251(c) (1981), and provisions and legislative history of D.C. Law 1-58, the Duties and Responsibilities of the Advisory Neighborhood Commissions Act of 1975, the Corporation Counsel opined that "an ANC may not expend the funds allocated to it to finance litigation." In a letter dated April 4, 1978, then District of Columbia Auditor Matthew S. Watson advised an ANC that it could not make a grant to tenants associations to help those associations pay attorney's fees. (This letter is reprinted at page 77 of the 1985 ANC Manual.) See also American University Park Citizens Association v. Burka, Superior Ct. Civil Action No. 11437-76, June 23, 1977, 105 W.L.R. 1393, 1409-1410 (Aug. 4-5, 1977) (ANC not permitted to file amicus curiae memorandum in a case before the Superior Court). In Kopft v.

District of Columbia Alcoholic Beverage Control Board, 381 A.2d 1372, 1375-1376 (D.C. 1977), the D.C. Court of Appeals ruled that an ANC may not file a petition for review in that Court. The Court stated in pertinent part that "the role of the ANCs is 'advisory,' as their very name suggests; they do not have an enforcement responsibility - or authority." 381 A.2d at 1376.

Permitting ANCs to finance the legal representation costs incurred by private persons or organizations in connection with quasi-judicial proceedings before District Government administrative agencies is not substantially different from permitting ANCs to finance the legal representation costs incurred by private persons or organizations in court litigation. And to permit ANCs to finance legal costs in either situation is, in effect, to permit ANCs to assume "an enforcement responsibility - or authority" which they do not have.... " Kopff, supra, 381 A.2d at 1376. The authority of an ANC is to offer advice, not to exert legal compulsion on agencies or officers of the District Government.

In sum, it is not proper for an ANC to make a grant to a private person or organization to defray legal expenses incurred by that person or organization in a proceeding before an agency of the District of Columbia Government.

Sincerely,


James R. Murphy
Acting Corporation Counsel, D.C.

cc: William R. Spaulding
Chairman, Committee on
Government Operations
Council of the District
of Columbia