

Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL

DISTRICT BUILDING

WASHINGTON, D. C. 20004



IN REPLY REFER TO:

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(92-427-L) (LCD-65

December 28, 1992

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

Re: May an ANC fund a church recreation program for area youth?

Dear Mr. Troupe:

This is in response to your October 28, 1992 letter seeking the advice of this Office concerning whether an Advisory Neighborhood Commission (ANC) may make a grant of public funds to a church recreation program for area youth.

The facts are that ANC 8-B received a request for a grant from the A.P. Shaw United Methodist Church Recreation Department located at 2525 12th Place, S.E. The church has joined the "Jabbo Kenner" football league and wishes to sponsor a football team for children who live in the area. The grant would be used to purchase football equipment and clothing such as helmets, shoulder pads, jerseys, and pants.

Section 16(m) of the Advisory Neighborhood Commission Act, as amended, D.C. Code § 1-264(m) (1992), provides in pertinent part:

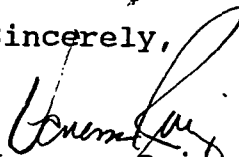
A grant approved by a Commission shall provide a benefit that is public in nature and that benefits persons who reside or work within the Commission area. A grant to an individual shall be prohibited as a nonpublic purpose expenditure.

This section must be construed together with the Establishment Clause of the First Amendment to the Constitution, which provides that "Congress shall make no law respecting an establishment of religion." Under the Establishment Clause, ANC 8-B may make a grant to the A.P. Shaw United Methodist Church Recreation Department only if: (1) the grant has a secular purpose, (2) the principal or primary effect of the grant is one that neither advances nor inhibits religion, and (3) the grant does not foster

an excessive ANC entanglement with religion. See Roemer v. Board of Public Works of Maryland, 426 U.S. 736, 747-748 (1976) (upholding grants to Catholic colleges under a program for which all Maryland colleges and universities were eligible so long as their primary purpose was not conferring religious degrees and the State's money was used solely for non-sectarian purposes).

The purpose for which the A.P. Shaw United Methodist Church Recreation Department seeks a grant is a public purpose and a secular purpose within the meaning of D.C. Code § 1-264(m) and the Establishment Clause, and otherwise satisfies these statutory and constitutional requirements so long as: (1) participation as a member of the football team is not limited on the basis of religious affiliation, and (2) the items of football equipment and clothing purchased with the grant funds are not "given" to individual members of the team, but remain the property of the A.P. Shaw United Methodist Church Recreation Department for the use of team members in future years. So long as these requirements are met, and so long as ANC 8-B follows the procedural requirements set forth in D.C. Code § 1-264(m), there is no legal objection to ANC 8-B's making a grant to the A.P. Shaw United Methodist Church Recreation Department for the purpose indicated.

Sincerely,



Vanessa Ruiz
Deputy Corporation Counsel
Legal Counsel Division

cc: The Honorable James Nathanson
Council of the District of Columbia

Regina Thomas, Director
Office of Constituent Services