

Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL

JUDICIARY SQUARE

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WASHINGTON, D. C. 20001



IN REPLY REFER TO:
OLC:LNG:Ing
(AL-97-068)

February 14, 1997

Barbara F. Kahlow
The Westbridge #404
2555 Pennsylvania Avenue, N.W.
Washington, D.C. 20037

Re: Validity of election of officers conducted
by Advisory Neighborhood Commission 2-A on
February 3, 1997

Dear Mrs. Kahlow:

This is in reply to your February 4, 1997 letter in which you request the advice of this Office concerning the validity of the election of officers conducted by Advisory Neighborhood Commission (ANC) 2-A on February 3, 1997.

You state in your letter that on February 3, 1997, ANC 2-A held a special meeting to elect officers and for other purposes. Of the total of 6 commissioners in ANC 2-A, only 4 were present at this meeting. Officers were elected with the affirmative votes of 3 of the 4 commissioners present. You ask whether this election was consistent with ANC 2-A's bylaws. In this regard you state:

Article IV, Section 3 of ANC-2A's bylaws reads as follows: "Officers of the Commission shall be elected by a majority vote, as defined in Article VI, Section 4, of the Commissioners. [Sic] Article VI, Section 4 reads as follows: "In these bylaws, a majority is understood to be a majority of all currently seated Commissioners of the Advisory Neighborhood Commission of Foggy Bottom and West End." By my records, in 1995 and 1996, ANC-2A attempted, without success, to amend its bylaws.

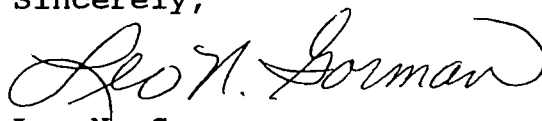
If your understanding of the current state of ANC 2-A's bylaws, as set forth in the above-quoted paragraph from your letter, is correct, then it appears that the election of an officer would require the affirmative votes of 4 commissioners of ANC 2-A. However, it is my understanding that at the May 17, 1995 ANC 2-A public meeting, a resolution (Resolution # 95-5B) was approved on first reading that amended Article VI, Section 4 of ANC 2-A's bylaws to read as follows:

In these by-laws, a majority is understood to be the majority of currently seated commissioners of the Foggy Bottom/West End Advisory Neighborhood Commission present and forming a quorum.

It is further my understanding that at the June 21, 1995 public meeting of ANC 2-A this resolution was approved on second reading. The minutes of these two public meetings indicate that at each meeting the vote on the resolution was 4 to 2 in favor, with Commissioners Miller and Tyler opposing.¹

In regard to ANCs, the term "quorum" means the minimum number of commissioners who must be present at a public meeting in order for that commission validly to take official action. In the case of ANC 2-A, the minimum quorum number is 4, *i.e.*, a majority of the total number single-member district positions in ANC 2-A. Since there were 4 ANC 2-A commissioners present at the February 3, 1997 meeting, the quorum requirement was satisfied. The intent of the 1995 amendment to Article VI, Section 4 of ANC 2-A's bylaws was to generally define the number of votes necessary to carry a motion as a majority of a quorum. Where 4 commissioners of ANC 2-A are present at a public meeting, a majority of a quorum is 3. Therefore, since those elected on February 3, 1997 to serve as officers of ANC 2-A during 1997 received the affirmative votes of 3 commissioners out of the 4 present at the meeting, this election was not inconsistent with ANC 2-A's bylaws.

Sincerely,



Leo N. Gorman
Assistant Corporation Counsel
Office of Legal Counsel

cc: The Honorable Kathleen Patterson
Chairperson, Committee on Government Operations
Council of the District of Columbia

¹ In this regard, it is relevant to note that in the July 12, 1995 issue of The Current newspaper, the following was reported concerning the actions that were taken by ANC 2-A at its June 21, 1995 public meeting: "At a June 21 meeting, the commission:

* * * * *
voted 4-2 to change its bylaws to enable a majority of the commissioners at a meeting to take actions as long as a quorum is present.

For example, if five of the commission's six members are present, the commission can now pass a resolution by a 3-2 vote. Previously, a 4-1 vote would have been required. * * *