

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE ATTORNEY GENERAL**



**ATTORNEY GENERAL  
BRIAN L. SCHWALB**

**Legal Counsel Division**

June 13, 2023

Josh Jacobson  
Commissioner, ANC 1E

**Re: Lawfulness of ANC 1E Notice Methods**

Commissioner Jacobson:

You have indicated that your Advisory Neighborhood Commission (“ANC”) often gives notice of its meetings through two methods: dissemination to a listserv that residents can sign up for on the ANC website, and publication on your ANC’s website itself. You asked whether these two methods meet the requirements for meeting notice under the Advisory Neighborhood Commissions Act of 1975 (“ANC Act”).<sup>1</sup> In our view, based on the information you have provided, they do.

The ANC Act requires each ANC to “give notice of all meetings . . . to each Commissioner and residents of the Commission area no less than 7 days” before the meeting.<sup>2</sup> Notice by at least two of the following four methods is sufficient to satisfy this requirement:

- (1) “Posting written notices in at least 4 conspicuous places in each single-member district within the Commission area”;
- (2) “Publication in a city or community newspaper”;
- (3) “Transmitting or distributing notice to a list of residents and other stakeholders in the community”; and
- (4) “In any other manner approved by the Commission.”<sup>3</sup>

We advised in a 2017 letter that notice by listserv and the ANC website could satisfy prongs (3) and (4) of this notice requirement. A listserv could qualify as a “list of other residents and other stakeholders in the community,” and notice by the ANC website could be lawful as a “manner

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<sup>1</sup> Effective Oct. 10, 1975 (D.C. Law 1-21; D.C. Official Code § 1-309.01 *et seq.*).

<sup>2</sup> D.C. Official Code § 1-309.11(c). Shorter notice is allowed “in the case of an emergency or for other good cause articulated in the notice.” *Id.*

<sup>3</sup> *Id.* § 1-309.11(c)(1)-(4).

approved by the Commission” if the ANC voted to approve that method of notice.<sup>4</sup> The same reasoning appears to apply here. Your listserv appears to be a list of residents and other stakeholders, and notice *via* your ANC’s website has been approved by the ANC.<sup>5</sup>

Three concerns have recently been raised, and you asked whether they affect our conclusion. They do not.

- (1) **Size of your listserv.** Our understanding is that your listserv reaches fewer than 5% of the ANC area’s residents. But the ANC Act does not establish a numerical threshold for a “list of residents and other stakeholders in the community,” and your listserv appears open to any community member who wishes to sign up for it.<sup>6</sup>
- (2) **Common source.** Your ANC’s community listserv is closely connected to its website, since the site is where people sign up for the listserv. Even so, the site and listserv are distinct forms of notice, as we explained in our 2017 letter; “A listserv directs notice to specific recipients; a website makes information available to the public at large.”<sup>7</sup>
- (3) **Other means of notice.** The ANC could, if it wished, provide notice through additional means, such as flyers in the community. But that does not undercut the lawfulness of the notice it has provided. Notice that satisfies at least two of the four statutory prongs listed earlier in this letter satisfies the ANC Act.

Accordingly, based on the information you have provided, we conclude that the two means of notice you have described satisfy the ANC Act.

Sincerely,

BRIAN L. SCHWALB  
Attorney General for the District of Columbia

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<sup>4</sup> See Letter to Comm’r Henderson, June 6, 2017, at 1-2, available at <https://oag.dc.gov/sites/default/files/2018-02/ANC-5-D-June-19-2017-Supplementary-Question-Concerning-Meeting-Notice.pdf>.

<sup>5</sup> Your ANC voted to incorporate this form of notice into the ANC’s Standard Operating Procedures in its January 12, 2023 meeting. See ANC Regular Public Meeting Minutes, Jan. 12, 2023, available from <https://anc1e.org/meeting-minutes/> (updated Standard Operating Procedures adopted as part of the consent agenda); ANC 1E Standard Operating Procedures, Part IV(L), available at <https://mwwraydc.files.wordpress.com/2023/04/sops-advisory-neighborhood-commission-1e-march-2023-updates.pdf> (ANC will announce meetings by at least two of: “email to listservs”; “Commission website/e-calendar”; “to the extent practical newsletter and social media”; and “verbally announcing the dates of upcoming meetings during the monthly general meeting”).

<sup>6</sup> See <https://anc1e.org> (inviting residents to “join our email list”). The list is not explicitly confined to ANC residents, but nothing in the ANC Act requires that it be so confined.

<sup>7</sup> Letter to Comm’r Henderson, *supra*, at 2.

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