

**Memorandum** 0 Government of the District of Columbia

TO: Otis H. Troupe  
District of Columbia  
AuditOr

Department, Corporation Counsel  
Agency, Office: L&O: KK: pm

FROM: James E. Lemert *JEL*  
Deputy Corporation Counsel  
Legal Counsel Division

Date: October 16, 1981

SUBJECT: Advisory Neighborhood Commissions

This is in reply to your request of August 18, 1981, concerning Advisory Neighborhood Commissions (HANCs). Specifically, you have asked for a summary of the regulations governing the donative power of ANCs, and have further requested a summary of statutes governing constituency service organizations.

In response to your first question, I am not aware of any regulations governing the donative power of ANCs. While the Advisory Neighborhood Commissions Act of 1975, D. C. Law 1-21, as amended by the Duties and Responsibilities of the Advisory Neighborhood Commissions Act of 1975, D. C. Law 1-58, and the Advisory Neighborhood Commissions Additional Notice Act of 1977, D. C. Law 2-30, D. C. Code Sections 1-171i - 1-171 l (Supp. V, 1978), set forth the duties and authority of ANCs, no reference is made to their donative powers.

Constituent service funds or citizen service programs are established in 88 Stat. 461, (1974), D. C. Code Section 1-1162 (Supp. V, 1978). Subsection (a) of that Code provision authorizes Councilmembers and the Mayor to establish citizen-service programs and to accept contributions to maintain such services. The total amount which may be contributed to and spent by Councilmembers elected by wards to maintain such services is \$10,000 per year and the maximum which any person could contribute for such a service generally is \$50.00 per year. For the Mayor, the Council Chairman, and at large Councilmembers, the total amount which may be contributed and spent is \$20,000, and the maximum that any individual could contribute per year for such programs is \$100.

D. C. Code Section 1-1162(c) requires contributions of personal property to be valued at fair market value. Subsection (d) provides that any contributions made pursuant to this section must be reported to the Director of Campaign Finance, and that other record keeping requirements in D. C. Code, Title I, Sub-

chapter IV, apply to contributions made pursuant to this section. and set forth special provisions to apply if a citizen service program ceases operating.

You may be interested to know that Bill 4-235, which is pending before the Council. would amend D. C. Code Section 1-1162 (Supp VII, 1978).

JEL

1-58. The developer to whom an exclusive right is awarded then submits to the Board detailed preliminary drawings, a community participation program (to involve neighborhood organizations in the planning of the proposal), a space use confirmation program, any necessary urban renewal plan modifications, an affirmative action program and additional documents and plans required by the exclusive rights agreement. The Board is under no obligation to accept the proposal in its final form.

The Board considers the development proposal, the final designation of the developer and, ultimately, the disposition of the parcel itself, at a public hearing, notice of which is sent to the ANCs. It is the designation of the developer and sale or lease of the land which comprise the final actions by the Board in the land disposition process, and it is only these final actions which are addressed in the opinion of March 7, 1977, when the Corporation Counsel concluded that "notice of proposed Redevelopment Land Agency action relating to land disposition must be sent to the ANCs pursuant to sec. 13(b) of D.C. Law 1-58."

The determination that a proposed governmental decision which requires a prior public hearing, such as final land disposition pursuant to D.C. Code, sec. 5-706(c), constitutes a decision "of significance to neighborhood planning and development" (see sec. 738(d), District of Columbia Self-Government and Governmental Reorganization Act, P.L. 93-198, D.C. Code 1-171) for purposes of providing notice to the ANCs would appear to be consistent with the holding of the District of Columbia Court of Appeals in Kopff v. District of Columbia Alcoholic Beverage Control Board, D.C. App., 381 A.2d 1372 (1977), that "every proposed governmental decision affecting neighborhood planning and development, as defined in [D.C. Code] §1-171i(c), for which a prior hearing is required by law is sufficiently significant to require written notice, pursuant to [D.C. Code] §1-171i(b), to the affected ANC or ANCs. The legislative decision to require a public hearing is an implicit determination of considerable significance of a proposed action. Because some form of public notice will already be required in such situations, the additional demand of special notice to affected ANCs will not be unduly burdensome."

I have carefully reviewed the pleadings filed by Mr. Asher and do hereby affirm the position of this Office that the selection of a developer with whom the Board will negotiate an exclusive rights agreement constitutes a preliminary step in the land disposition process separate and distinct from the approval of a development plan or the final disposition of the property.

LPR

Attachment