

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



Legal Counsel Division

August 31, 2006

Deborah K. Nichols
District of Columbia Auditor
717 14th Street, N.W.
Suite 900
Washington, D.C. 20005

Re: Does ANC law require a representative of a proposed grantee organization to present its grant request in person at an ANC public meeting?

Dear Ms. Nichols:

This letter responds to your inquiry concerning whether a representative of a proposed grantee organization is required to attend an Advisory Neighborhood Commission's (ANC) public meeting to present the organization's request for grant funds. We understand this question originated after your office's review of ANC 1C's quarterly report and meeting minutes, which showed that not all grant applicants sent representatives to ANC meetings to present their grant requests. Chairperson Alan Roth of ANC 1C responded by indicating that he never understood that the relevant statute expressly required that a representative of the proposed grantee organization needed to present a grant request to the Commission.

Section 16(m) of the Advisory Neighborhood Commissions Act of 1975, effective October 10, 1975, D.C. Law 1-21, D.C. Official Code § 1-309.13(m) (2006 Supp.), as amended by the Comprehensive Advisory Neighborhood Commissions Reform Amendment Act of 2000, effective June 27, 2000, D.C. Law 13-135 (collectively, the "ANC Act"), sets forth the requirements for awarding grants. It states in relevant part:

(1) A grant may not be awarded unless the grant is awarded pursuant to a vote of the Commission at a public meeting following the public presentation of the grant request. A Commission may approve grants only to organizations that are public in nature and benefit persons who reside or work within the Commission area...

* * *

(2) An applicant for a grant must submit an application in writing to the Commission. The application shall contain:

- A) A description of the proposed project for which the grant is requested;
- B) A statement of expected public benefits; and
- C) The total cost of the proposed project, including other sources of funding, if any.

In Commissioner Roth's view, this does not necessarily mean that the individual requesting the grant on behalf of an organization must be physically present at the ANC meeting at which the grant is considered. Instead, Commissioner Roth states that his ANC has always interpreted this statute to mean that the grant request itself must be "publicly placed" before the Commission and "described, discussed, and voted on – not that a representative of the grantee is required to appear in person, particularly when there does not seem to be any question or controversy associated with the request."

When interpreting statutory language, we must give effect to the plain meaning of the words and "absent a clearly expressed legislative intention to the contrary, that language must ordinarily be regarded as conclusive." *Consumer Prod. Safety Comm'n v. GTE Sylvania, Inc.*, 447 U.S. 102 (1980). Here, we do not believe that the statute is so clear on its face that further inquiry is not necessary. Though the requirement that the grant request be publicly presented might suggest that a public presentation must necessarily be made by the requestor, it does not expressly state this. It only requires that the request be publicly presented, and this could also mean that the application be raised by a Commissioner as a matter of business to be considered by the ANC. We therefore must look to the Council's intent when it enacted the legislation.

Interpreting the Council's intent can be done in two ways: 1) reviewing the law as it was prior to its current amended form; and 2) reviewing the Committee Report to determine the reasons, if any, for the change.¹ Both are helpful in this instance and lead to a common result.

Prior to the 2000 ANC Amendment, the Advisory Neighborhood Commission Act of 1975, as amended, October 10, 1975, D.C. Law 1-21, D.C. Code § 1-264(m)(1999 Repl. Vol.) was the relevant provision regarding ANC grant fund requests. The provision then read:

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 non-public purpose expenditure. A Commission shall adopt guidelines for the consideration and award of grants that shall include a *provision that requires the proposed grantee to present the*

¹ "Committee Reports represent the most persuasive indicia of congressional intent in enacting a statute. In that light, it has also been stated that absent contrary legislative history, a clear statement in the principal committee report is powerful evidence of legislative purpose and may be given effect even if it is imperfectly expressed in statutory language." J. Singer Sutherland, *Statutes and Statutory Construction*, Vol. 2A, § 48:06 (6th Ed. 2002).

request for a grant at a public meeting of the Commission.
A grant may not be awarded unless the grant is awarded pursuant to a vote of the Commission at a public meeting. The award of a grant by a Commission shall not be conditioned on support for a position taken by the Commission.

The 2000 ANC amendment changed the statute to its current form, which, as stated above, provides only that “a grant may not be awarded unless the grant is awarded pursuant to a vote of the Commission at a public meeting *following the public presentation of the grant.*” Key language from the earlier version of the act, which directed the Commissions to “adopt guidelines for the consideration and award of grants that shall include a provision that requires the proposed grantee to present the request for a grant at a public meeting of the Commission” was omitted. There is no question, then, that prior to the 2000 amendment, the proposed grantee *was*, in fact, required to present its grant request during an ANC public meeting and that this same language is no longer contained in the amended law.

In general, the passing of an amendatory act raises certain presumptions. The first is that an amendment is “presumed to have been intended to change the law...” J. Singer, *Sutherland Statutory Construction* Vol. 1A, § 22:30 (6th Ed. 2002). The extent of the change is determined by the scope of the new language of the law. *Id.* at § 22:32. It is also presumed that lawmakers are aware of the terms of the original act, and therefore, changes to an act are presumed as the intent of lawmakers to alter the meaning of the law. *Id.* at § 22:30. Omitted sections are considered repealed unless the legislative intent is indicated to the contrary. J. Singer *Sutherland, Statutes and Statutory Construction*, Vol. 1A, § 22:32 (6th Ed. 2002).

We find no such contrary legislative intent. A comparison of the statutes shows that the Council did, in fact, incorporate a portion of the older statute into the 2000 amendment, suggesting the Council could also have preserved the sentence that requires representatives of grantee organizations to attend and present its request at ANC meetings.² It did not do so. Recognizing again that there is a presumption that lawmakers are aware of the prior construction of terms in an act, changes and omissions are presumed to be intentional and reflective of the act’s changed meaning. *Id.* at § 22:30. The Council’s omission of that particular sentence, therefore, can reasonably be interpreted as their intent to purposefully change the role and requirements of the grantee organization, so as to relieve them of the requirement to present grant requests at an ANC meeting.

In addition to the language omitted by the 2000 ANC amendment, the added content is also important when interpreting the meaning of the current statute. The amended law requires that applicants for ANC grants must submit a written application which must contain three elements – a description of the project, a statement of the expected public benefits, and the cost of the project. D.C. Official Code § 1-309.13(m)(2) (2006 Supp.).

² The requirement that grants be public in nature and benefit persons who reside or work within the Commission area, appears in both the earlier law as well as the amended version.

The addition of this language, in light of the previous omission, suggests that the Council considered the role of the grantee organizations and determined perhaps that application in writing was more important than the physical appearance of a requestor to orally present a grant request.

The Report from the Committee on Local and Regional Affairs (“Committee Report”) on the 2000 ANC amendment is not quite as helpful in that it does not contain specific comments regarding the omitted language. Nonetheless, the Committee Report notes that the new amendment changes the provision in that “[i]t restricts the purposes for which [grants] may be given and explicitly requires accountability by the Commissioners at public meetings.”³ This shift away from greater ANC discretion together with the carefully detailed requirements for obtaining a grant – now made a part of the statute – are consistent with our conclusion that all of the Council’s revisions were intentional. In other words, the Council intended not only to add requirements, but to eliminate others, namely, the requirement for a public presentation by the requestor.

For these reasons, we conclude that there is no requirement that an individual must, on behalf of a grantee organization, physically present a grant request at an ANC meeting. All that is required is that a grant request be publicly presented and this can be done by the ANC itself when it considers the application at the public meeting.⁴

Sincerely,

ROBERT J. SPAGNOLETTI
Attorney General

/s/

RJS/dps

(AL-06-371)

³ Council of the District of Columbia, Committee on Local and Regional Affairs Report, “Report on Bill 13-468, the Comprehensive Advisory Neighborhood Commissions Reform Amendment Act of 2000” (January 11th 2000).

⁴ Certainly, if the ANC has questions concerning the grant application, it would be good practice for a representative to appear on behalf of the requesting organization or run the risk that the application might be denied.