

FILE

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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(91-556-L)

May 12, 1992

Ms. Grace Bateman  
Chair, ANC 2-E  
1041 Wisconsin Avenue, N.W.  
Washington, D.C. 20007

Dear Ms. Bateman:

On January 9, 1992, this Office issued a letter in response to your inquiry concerning the status of last *year's* elected officers of ANC2-E in light of the fact that the Commissioners had met and been unable to break a tie vote in the election for new officers. I understand that no new officers have been elected yet even though we are five months into the year. Although Councilmember Nathanson has expressed a different view from ours on the issue of holdover authority, particularly as it relates to the potential for abuse by an entrenched group, we share many of his concerns. In light of the continuing deadlock, I want to ensure that my earlier letter is neither misinterpreted nor misapplied. Therefore, the purpose of this letter is to expand on the earlier advice in light of the present situation.

As stated in the January 9 letter, this Office's view is that last *year's* officers have continuing authority in the event of a tie vote in a mid-term election, until their successors are elected. This would not be the case, of course, after an election of a new commission as the old officers would have no underlying authority to act as officers of the new ANC.

The authority of old officers to hold over in the event of a tie vote, however, also implies an affirmative duty to call and hold a successful election for new officers. The holdover doctrine is a public policy expedient that derives its force solely from the fact that new officers are not otherwise available to assume their functions. It is not the preferred course nor meant to substitute for an election of new officers. Otherwise, the old officers would be using their holdover powers to achieve an impermissible advantage that is not contemplated by the policy of public convenience and necessity cited in my earlier letter. The proper exercise of holdover authority by old officers is to make possible the continued functioning of the ANC; its primary purpose should be achieving a decisive election of new officers. Use of holdover



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powers to achieve other objectives and "freeze out" those with opposing views on substantive matters that come before the ANC is improper and contrary to the nature and role of Advisory Neighborhood commissions.

In your letter to me of January 8, 1992, you stated that "we have explored the possibility of mediation and will reconsider this option if it appears fruitful." After more than five months without resolution, I would suggest that mediation may be fruitful at this point. Further, I understand that several ANC 2-E commissioners have made suggestions for adopting procedures for breaking the impasse: drawing straws, drawing names from a hat, etc. Any of these solutions would be preferable to the present deadlocked situation. I encourage you again, as Councilmember Nathanson repeatedly has urged, that the members of ANC 2-E act responsibly to resolve this deadlock and decide for yourselves how such situations are to be resolved. The Chairmanship, in particular, carries special obligations and a responsibility to all ANC members. As Chair, it is your duty to see to it that the ANC functions as it is intended, including the election of new officers.

Sincerely,

Vanessa Ruiz  
Deputy Corporation Counsel  
Legal Counsel Division

cc: Honorable James E. Nathanson  
Warren Graves  
otis Troupe  
Westy McDermid