

Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL

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(93-135-L) (LCD 773)

May 18, 1993

Beth Kravetz
Commissioner, ANC 3-E
4226 40th street, N.W.
Washington, D.C. 20016

Re: May the same person serve as the secretary
and the treasurer of an Advisory Neighborhood
Commission?

Dear Commissioner Kravetz:

This is in response to your April 26, 1993 letter requesting the legal advice of this Office concerning whether a commissioner of an Advisory Neighborhood Commission (ANC) may simultaneously hold the offices of secretary and treasurer.

The question arises because of a dispute between your ANC and the D.C. Auditor concerning the proper interpretation of language in § 16(j) of the Advisory Neighborhood Commissions Act of 1975, as amended, D.C. Code § 1-264(j) (1992). Subsection (j) requires each ANC to prepare, approve, and file with the Auditor a quarterly financial report that is "signed by the Chairman, the Secretary, and the Treasurer••••". The Auditor takes the position that this language means that the three signatures on the quarterly financial report must be those of three different individuals. You, on the other hand, serve as both the secretary and the treasurer of ANC 3-E and take the position that you may satisfy the requirements of subsection (j) by signing a quarterly financial report twice, once in your capacity as secretary and once in your capacity as treasurer.

For the reasons that follow, I conclude that you may serve as both secretary and treasurer of ANC 3-E, and therefore your signature in each capacity on a quarterly financial report satisfies the requirement of subsection (j) of section 16 of the Advisory Neighborhood Commissions Act of 1975 that the report be signed by the ANC secretary and the ANC treasurer.

section 14(e) of the Advisory Neighborhood=Commissions Act of 1975, as amended, D.C. Code § 1-262(e), provides in relevant part

that in January of each year each commission shall elect "a Chairperson, vice-chairperson, secretary, and treasurer." Subsection (e) then goes on to describe the duties of these positions. While the language setting forth the duties of the vice-chairperson, namely to "fulfill the duties of the Chairperson" in the latter's absence, indicates that the same ANC commissioner could not simultaneously hold the offices of chairperson and vice-chairperson, there is no language in subsection (e) that indicates that the Council intended to prohibit an ANC commissioner from simultaneously holding the offices of secretary and treasurer.

As noted above, § 16(j) of the Advisory Neighborhood Commissions Act of 1975, as amended, D.C. Code § 1-264(j) (1992), requires that ANC quarterly financial reports submitted to the Auditor be signed by the ANC chairperson, the secretary, and the treasurer. The plain language of subsection (j) does not require that the secretary and the treasurer be separate individuals. Therefore, it is appropriate to examine the legislative history of subsection (j) to determine if it demonstrates such an intent.

The language of subsection (j) comes from the Advisory Neighborhood Commission Amendment Act of 1990, effective March 6, 1991, D.C. Law 8-203. At page 7 of the October 25, 1990 Report of the Committee on Government operations on Bill 8-626 (the bill that became D.C. Law 8-203), the following is stated in regard to subsection (j):

••• [This subsection] rewrites section 16, which deals with the ANC allotments, hiring of employee, publication of materials by Commissions, and filing of financial reports, in order to incorporate a number of suggestions received as a result of the hearing on Bill 7-567, the "Advisory Neighborhood Commission Act of 1988", as well as many of the rules governing audit and financial procedures for ANCs that were adopted by the D.C. Auditor in 1976 but which were never incorporated into the D.C. Municipal Regulations due to a subsequent corporation Counsel ruling that the D.C. Auditor did not have rule-making authority.

In 1976, then D.C. Auditor Matthew S. Watson adopted rules governing audit and financial procedures for ANCs. See 22 D.C. Register 5579-5588 (April 15, 1976). Paragraph 15 of Subchapter II of the Watson rules requires ANCs to prepare and submit to the Auditor a quarterly "financial statement." This financial statement was required to be "signed by the Treasurer and Chairman, and attested by the Secretary•••" 22 D.C. Register at 5586-5587.

Bill 7-567, the "Advisory Neighborhood Commission Act of 1988," as introduced, would have required ANC quarterly financial statements to be "signed by the Chairman and the Treasurer." Bill 7-567, at p. 7. At the October 20, 1988 hearing on Bill 7-567 be-

fore the Council's Committee on Government Operations, the Auditor stated at page 5 of his written statement:

section 3(c) (k) requires the Commission to submit to the Auditor an approved financial statement signed by the Chairman and the Treasurer. Our current practice is for each statement to be signed by the Chairman, Treasurer and Secretary. I believe the current practice should continue. Accordingly, I recommend this section be amended to include the Commission Secretary as one of the required signatures on the financial report.

And in oral testimony before the Committee on Government operations that day, the Auditor stated the following on this Subject:

Section 3(c) (k) requires the Commission to submit to the Auditor an approved financial statement signed by the Chairman and Treasurer. We feel that the Commission's Secretary's signature should also accompany that. And, on an operating basis, what this does is, it better ties a record of operating and program decisions to a record of financial disbursements and obligation[s]. We think that's a good idea.

Legislative Services Office tape of committee hearing, Tape II, Side II, 392-398.

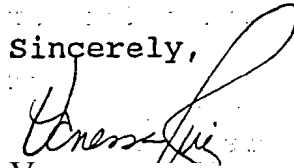
This legislative history does not demonstrate that the Council intended by Subsection (j) to require the signatures of three separate commissioners on quarterly financial reports.

On the other side of the coin, the following arguments support the proposition that one commissioner may serve as both the secretary and the treasurer of an ANC, and therefore may sign the report twice, once in each capacity: (1) As you note in your letter, it is not uncommon in organizations for one person to serve as both the secretary and the treasurer of the organization. (2) If it had intended to prohibit an ANC commissioner from holding both offices at the same time, the Council could easily have inserted clear language to that effect in § 14(e) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-262(e) (1992), where such language would most logically appear. (3) There appears to be nothing in Robert's Rules of Order (Newly Revised 1971) (see the last sentence of § 14(e) that suggests that one person may not serve as both the secretary and the treasurer of an organization. (4) Perhaps the most persuasive argument against drawing an inference that the council intended the language of subsection (j) to require that quarterly financial reports be signed by three different commissioners is the fact that the Council itself has drawn the ANC boundaries in such a manner as to create an ANC that has only two commissioners, namely ANC 1-0. Thus, to construe subsec-

tion (j) as requiring the quarterly financial report to be signed by three separate commissioners would be to impute to the Council an intent to impose a requirement that at least one ANC cannot possibly comply with. Absent clear evidence of such a Council intent, I decline to infer it.

In sum, upon the foregoing, I conclude that you may serve as both the secretary and the treasurer of ANC 3-E, and that your two signatures on ANC 3-E's quarterly financial reports, one in each capacity, along with the signature of the chairperson of ANC 3-E, satisfy the requirement of § 16(j) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-264(j) (1992), that the quarterly financial report be signed by the chairperson, the secretary, and the treasurer of the ANC.

Sincerely,



Vanessa U. Z.
Deputy Corporation Counsel
Legal Counsel Division

cc: Otis H. Troupe
D.C. Auditor

The Honorable Harold Brazil
Chairman, Committee on Government Operations
Council of the District of Columbia

Regina Thomas
Director, Office of Constituent Services