

Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL

DISTRICT BUILDING

WASHINGTON, D. C. 20004



July 29, 1992

FILE

IN REPLY REFER TO:

L&O:LNG:lng
,(92-250-L)

Charles R. Braun
Chairman
Advisory Neighborhood Commission 3-F
4401 Connecticut Avenue, N.W. Suite 205
Washington, D.C. 20008

Re: Will the Corporation Counsel represent citizen members of Advisory Neighborhood Commission committees?

Dear Chairman Braun:

This is in reply to your recent, undated letter requesting the advice of this Office concerning whether this Office would provide legal representation to citizen members of an Advisory Neighborhood commission (ANC) committee or task force in the event such citizen members are sued in connection with their committee or task force work.

As you noted in your letter, this Office has stated that it will provide legal representation to ANC commissioners who are sued in connection with the good faith performance of actions within the scope of their official duties. See October 2, 1986 letter from James R. Murphy to William R. Spaulding. The rationale for this policy of representation is that ANC commissioners are District government officers. citizen members of ANC committees, on the other hand, are neither District government officers nor are they salaried employees of an ANC subject to the supervision and control of the commissioners of an ANC. Rather, they are volunteers who are not Subject to the supervision and control of District government officers or employees.

Under section 4(d) of the Volunteer Services Act of 1977, effective June 28, 1977, D.C. Law 2-12, D.C. Code § 1-306(d) (1987), the District is "liable to third parties for tortious injury caused by volunteers," but only if those volunteers are "under its supervision and control." Consistent with the policy expressed in the Volunteer Services Act of 1977, it is the general policy of this Office that the Corporation Counsel will provide legal representation to volunteers who are under the supervision and control of District government officers or

employees in the event such volunteers are sued in connection with their volunteer work.¹ In order to qualify as a volunteer under the Volunteer Services Act of 1977, a person must comply with the regulations governing voluntary services set forth in Chapter 35 of the District's Personnel Manual (DPM). Under these regulations, a prospective volunteer must execute a volunteer service agreement and "be assigned to an employee of the agency utilizing the volunteer's services." Such employee is "responsible for assignment of duties" and "supervision and control of the activities of the volunteer." See Chapter 35 DPM section 4000.14 and 4000.25.

Sincerely,



Vanessa Ruiz
Deputy Corporation Counsel
Legal Counsel Division

cc: The Honorable James E. Nathanson
Warren Graves

¹ There may be other circumstances in which it would be appropriate to provide representation to citizen members of ANC committees. For example, if all the members of an ANC committee, consisting of both Commission members and citizen members, were sued for a single action taken by a unanimous vote of the committee, and this action was taken in good faith and was within the scope of the committee's official duties, this Office would provide legal representation to the Commission members of the committee and in providing that representation would also represent the citizen members, provided that no conflict of interest would preclude such representation.