

# Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL

JUDICIARY SQUARE

441 FOURTH ST., N.W.

WASHINGTON, D. C. 20001



IN REPLY REFER TO:

Prepared by:LCD:ABE  
(AL-99-242)

May 19, 1999

Charles E. Smith Commercial Realty  
Attn: Karen K. Wilson  
c/o INTELSAT  
3400 International Drive, N.W.  
Box 65  
Washington, D.C. 20008

Re: Self-insurance of ANC 3F

Dear Ms. Wilson:

This responds to your letter of April 29, 1999 and our phone conversation of that date. You state that you represent INTELSAT, which owns a property currently leased to Advisory Neighborhood Commission ("ANC") 3F for use as its office. A standard clause in the lease requires the ANC to maintain comprehensive general liability insurance. The relevant portion of the lease, which you provided, states:

Tenant shall obtain and maintain in effect at all times during the term of this Lease a policy or policies of comprehensive general liability insurance, naming Landlord and any mortgagee of the Building as additional insureds, protecting Landlord, Tenant and any such mortgagee against any liability for bodily injury, death or property damage occurring upon, in or about any part of the Building, the grounds or the demised premises arising from any of the items set forth in this Article against which Tenant is required to indemnify Landlord, with such policy or policies to include Premises/Operations to the limit of not less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.

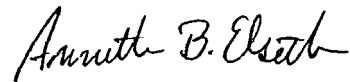
As we discussed on the phone, ANCs currently cannot lawfully purchase liability insurance with appropriated funds. The self-insurance rule may be stated as follows:

[T]he government is essentially a self-insurer in certain important areas, primarily loss or damage to government property and the liability of government employees insofar as the government is legally responsible or would ultimately bear the loss. The rule ... may be stated thus: In the absence of express statutory authority to the contrary, appropriated funds are not available for the purchase of insurance to cover loss or damage to government property or the liability of government employees.

Principles of Federal Appropriations Law, Chapter 4, §10a (2d ed. 1991). There is no express statutory provision authorizing ANCs to purchase liability insurance. Therefore, ANC 3F may not use its quarterly allotments of public funds to purchase comprehensive general liability insurance. The self-insurance rule is applicable to the ANC's lease of office space. Under that rule, any liability of the ANC arising from its operation of an office in the leased space would be paid for by the ANC from its own funds.

If you have any further questions regarding this matter, please do not hesitate to contact me at 727-3400.

Sincerely,



Annette B. Elseth  
Assistant Corporation Counsel  
Legal Counsel Division

cc: ANC 3F  
3400 International Drive, N.W.  
Room 2J-21  
Washington, D.C. 20008