

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



ATTORNEY GENERAL
KARL A. RACINE

Legal Counsel Division

April 14, 2017

Stacey Lincoln
Advisory Neighborhood Commission 4A
7820 Eastern Avenue N.W.
Washington, D.C. 20012

Re: Special Committee on Design Review

Commissioner Lincoln:

Your Advisory Neighborhood Commission recently created a Special Committee on Design Review, and you asked our office for a legal opinion on whether your Commission had the authority to do so.

Creating this new special committee falls squarely within your Commission's authority. The new committee would "study, review and make recommendations to the full Commission for all matters related to development and maintenance of the housing stock, historic preservation, neighborhood improvement and stabilization, commercial development, zoning, and public space."¹ Its recommendations to the Commission "shall be strictly advisory in nature."² The statute governing Advisory Neighborhood Commissions "expressly permits the formation of 'committee[s]' or 'task force[s]' within the ANCs,"³ including special committees like this one.⁴

One proposed feature of the committee, however, will need to be revised. The draft resolution would exclude "[r]elatives, spouses or partners of serving Commissioners" from committee membership, even if those relatives, spouses, or partners live in the Commission area.⁵ This

¹ Res. # 4A-17-0401, at 1 (on file).

² *Id.*

³ Letter to Commr. Mfon Ibangha, Dec. 22, 2006, available at <http://app.occ.dc.gov/documents/2006/20061222.pdf> (last visited Apr. 12, 2017); see, e.g., D.C. Official Code § 1-309.11(d)(1)(D) (2012 Repl.) (Commission bylaws must include "[t]he establishment of standing and special committees, including provisions for giving public notice of all committee meetings") (2012 Repl.).

⁴ We note that although the new committee is designated as a special committee – *i.e.*, one that is "created temporarily," ANC 4A Bylaws art. VIII sec. 1(b) – nothing in the resolution creating the committee suggests that the committee will cease to exist after a particular period of time. If the committee is intended to expire once it reviews a particular matter, we recommend that the resolution say so explicitly.

⁵ Res. # 4A-17-0401, at 2.

restriction would mean that a relative, spouse, or partner of a serving Commissioner could not chair the committee, because only a committee member would be allowed to serve as committee chair.⁶ The restriction would therefore violate section 14(f) of the Advisory Neighborhood Commissions Act of 1975,⁷ which states that “[c]hairmanship of each Commission committee or task force shall be open to any resident of the Commission area.” We recommend revising the draft resolution to address this concern. If the resolution is amended to remove the membership restriction, and a relative, spouse, or partner of a serving Commissioner is later considered for appointment as a committee member, we recommend that the Commissioner recuse him- or herself from voting on or otherwise participating in that appointment.

If you have any questions, please contact Josh Turner, Assistant Attorney General, at 442-9834, or Janet M. Robins, Deputy Attorney General, Legal Counsel Division, at 724-5524.

Sincerely,

KARL A. RACINE
Attorney General for the District of Columbia

By: 
JOSHUA TURNER
Assistant Attorney General
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(AL-17-232)

⁶ *Id.*

⁷ Effective March 26, 1976 (D.C. Law 1-58; D.C. Official Code § 1-309.11(f) (2012 Repl.)).