

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:OLC:KVK
(AL-98-092)

March 31, 1998

Councilmember Kathleen Patterson
Chairperson
committee on Government operations
suite 711
441 4th st., N.W.
Washington, D.C. 20001

Dear Kathy:

This is in reply to your February 19, 1998 letter asking this Office to review a May 17, 1996 letter from the then-Director of the Office of Legal Counsel to Ms. Ellen Broderick, a resident of Advisory Neighborhood Commission ("ANC") single-member district 4-A, concerning the administration of special elections to fill ANC vacancies. Specifically, you asked whether a person may be required to provide both a voter registration card and an identification card with a photograph (e.g., a driver's license) in order to vote in a special ANC election. For the reasons set forth below, it is my view that a person may not be required to produce identification with a photograph in order to be able to vote in an ANC special election.

In 1995, the Council of the District of Columbia enacted a new provision for conducting elections when there is a vacancy in the office of an ANC commissioner, and there are two or more qualified candidates for the vacant position. It states that:

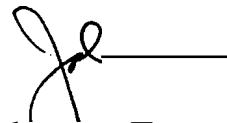
the affected [ANC] shall give notice at a public meeting that at the next regularly scheduled meeting there shall be an open vote of the members of the affected single-member district to elect the new commissioner. All registered qualified electors shall display their voter identification card or, alternatively, be listed on the voter registration list (provided by the Board [of Elections and Ethics]) as a voter in the affected single-member district. The ballots shall be counted by at least two impartial vote counters. The results shall be read aloud by the Chair of the [ANC] or, alternatively, by such commissioners as the Chair shall designate.

Advisory Neighborhood Councils Act of 1975, D.C. Law 1-21, § 8, effective October 10, 1975, as amended by the Advisory Neighborhood Commission Vacancy Amendment Act, D.C. Law 11-66, § 2, effective October 26, 1995, D.C. Code § 1-257(d) (6) (E) (1997 Supp.). This language does not authorize the election official to require a voter to produce an identification card with a photograph in order to vote in an ANC special election.

The May 17, 1996 letter to Ms. Broderick takes note of this language, but then goes on to suggest that, "to insure that a person who presents a voter registration card is in fact the person whose name appears on the card, the person should be asked to provide some additional identification, preferably a piece of identification with the voter's photograph on it". This procedure is not authorized by the above-quoted statutory language. Indeed, that language makes no provision for confirming that a person who arrives at a polling place and claims to be a person on the voter registration roll, or who has a voter registration card, is who he or she claims to be. In the absence of any statutory instruction on this matter, it is my view that a person who arrives at an ANC special election with a voter registration card which he or she identifies as his or her own, or who identifies himself or herself as a person listed on the voter registration list, should be permitted to vote. Consequently, the advice to the contrary in the May 17, 1996 letter to Ms. Broderick should be disregarded.

Thank you for bringing this matter to my attention. If you have any questions, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "John . Ferren", followed by a horizontal line extending to the right.

John . Ferren
corporation Counsel