

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE ATTORNEY GENERAL



LEGAL COUNSEL DIVISION

July 20, 2009

Albrette "Gigi" Ransom  
Commissioner ANC 5C12  
219 Webster Street, N.E. #2  
Washington, D.C. 20011-4945

Re: Request for Legal Advice Regarding Resolution of  
Censure

Dear Commissioner Ransom:

This is in response to your June 2, 2009 letter and subsequent telephone conversations and e-mails in which you seek the advice of this Office regarding the censure resolution that was passed by Advisory Neighborhood Commission (ANC or Commission) 5C regarding your actions as commissioner. You contend that ANC 5C neither followed proper procedures in censuring you nor provided you with a sufficient opportunity to defend. You also state that you have never received an official copy of the censure resolution that was passed by the Commission, although versions of the resolution have been publicly distributed. As you are aware, I was not able to respond to your letter sooner because of my difficulty in obtaining an official copy of the resolution. Attached is an official copy of the censure resolution, "Resolution of Censuring and No Confidence Vote for the Commissioner from 5C12", passed on June 16, 2009, which I recently obtained from the Commission's Recording Secretary.<sup>1</sup> While I cannot address the merits or factual basis for the censure resolution, I conclude that because proper procedures were not followed in its passage, it is legally improper.

The minutes of the May 19, 2009 meeting of ANC 5C indicate that a resolution to censure you was introduced. The minutes state that you were informed you could provide a response at a publicly organized meeting in your Single-Member District (SMD), you gave a lengthy response in defense of your integrity at the meeting, and a heated debate ensued before the meeting was adjourned. The June 6, 2009 Committee of the Whole (COW) minutes indicate that a call was made for a vote on the resolution, the resolution was amended, and a motion was passed regarding the amended resolution.

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<sup>1</sup> The resolution was revised after it was introduced.

However, it appears that another vote was taken on the resolution, which appears to have been again amended, at the June 16, 2009.<sup>2</sup>

The censure resolution that was approved by the Commission on June 16, 2009 includes the following findings regarding your actions: 1) misrepresentations to the Office of Contracting and Procurement regarding a request for office furniture and equipment to be delivered to your residence; 2) waste of ANC funds caused by your failure to approve two proofs of business cards provided by the Commission; 3) an e-mail sent to the Vice-Chairman of ANC 5C, with copies to other Commissioners, which the Commission found to include “racist and bigoted” comments; 4) “erratic outbursts” and “outlandish behavior” disrupting Commission meetings, most recently on May 6, 2009, causing the Chair to adjourn the COW meeting; 5) “disregard for the leadership” at Commission’s meetings and refusal to accept the Commission rules; 6) overstepping boundaries of the Commission by making a complaint to Catholic University, which is not located in your SMD; and 6) lack of leadership creating “a lack of representation” for your SMD. Based on these findings, the resolution contains the following resolves: 1) formal action is taken in the form of a “No Confidence Vote” and “Censure” and a warning that you may be stripped of all memberships in standing and special committees for the remainder of your term; 2) the censure action was taken to inform your SMD constituents of your actions; 3) the Commission will enforce the rules in its By-Laws against you for any disruptive behavior in the future; and 4) you may call a special, properly noticed public meeting in your SMD within 30 days, to answer the allegations in the resolution, and at such time the Commission may “expunge, rescind, its actions or [impose] further sanctions by way of amending and/or enforcing its By-Laws.”

As you stated in your letter, ANC 5C’s By-Laws, as amended on September 21, 2004, do not contain any procedures for censuring a commissioner. Also, there are no statutory provisions governing how an ANC may discipline one of its commissioners.<sup>3</sup> Where procedures are not otherwise provided, Section 14(e)(3) of the Advisory Neighborhood Commission Act (ANC Act), effective March 26, 1976, D.C. Law 1-21, D.C. Official Code § 1-309.11(e)(3) (2006 Repl.) provides that ANCs shall be governed by Roberts Rules of Order (*Roberts*), which sets forth guiding parliamentary procedures. (Article 11 of ANC 5C’s By-Laws also provide that *Roberts* shall govern the Commission in all cases in which it is not inconsistent with the By-Laws or special rules adopted by the Commission.) In regard to disciplining members of the Commission body, including censuring, *Roberts Rules of Order, Newly Revised* (10<sup>th</sup> Ed. 2000), provides that

A member has the right that allegations against his good name shall not be made except by charges brought on reasonable ground. If a member is thus accused, he has the right to due process – that is, to be informed of

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<sup>2</sup> According to Chairperson Anita Bonds, the censure resolution was never placed on the agenda.

<sup>3</sup> While an ANC is permitted to discipline its commissioners by reprimand or censure, it may not expel them from membership in the Commission because of their elected status. There are only 2 ways that a commissioner can be removed from office: (1) by being defeated at the next general election, or (2) by being recalled from office pursuant to the recall process. See D.C. Official Code § 1-1001.17(c)(3) (2006 Repl.).

the charge and given time to prepare his defense, to appear and defend himself, and to be fairly treated.

*Id.* at 631. *Roberts* makes a distinction between the process for verifying allegations against a member when the offenses have occurred within the assembly's proceedings and those external offenses that occurred elsewhere. *Roberts* at 626-631. With respect to the internal offenses, *Roberts* provides that there is no need for a trial with witnesses since those with knowledge and observations of the behavior are part of the body determining the punishment. *Id.* at 627. However, for the external alleged offenses, *Roberts* states that there is a need for a trial, or at least fact-finding by the whole assembly or a committee, and that this process for determining whether the allegations are true should occur in a confidential setting because the reputation of the accused is at stake. *Id.* at 629-631.

Based on the information that has been provided to this Office, the process employed by ANC-5C to censure you cannot be said to have been in compliance with *Roberts*. The censure resolution was passed without providing you with sufficient notice to prepare your response to the allegations and without any fact-finding for those alleged external offenses that occurred outside of the Commission's proceedings. Moreover, providing you with an opportunity to respond to the allegations against you at a special meeting with your SMD, either before or after the censure resolution was passed, does not comport with the *Roberts* requirement that there be a non-public fact-finding.

The following are responses to the 12-numbered questions posed in your letter, to the extent that they are not answered in the analysis above.<sup>4</sup>

1. *Was the introduction and addition of this resolution to the agenda valid?*

While the censure resolution was not on the agendas of the meetings at which it was considered, it is unclear if any objections were made at the time that the resolution was introduced for consideration.

2. *There are ten (1) alleged charges against me in this resolution. According to [Roberts], Chapter XX, Disciplinary Procedures (starting p. 624), if our bylaws did not provide for a method of charge and trial, with no non-members in attendance, a member could offer a resolution to form a confidential investigative committee, made up of members known for integrity and good judgment (p. 632). There is no record in the prior approved meeting minutes, nor was this information presented at the meeting. Was this action valid?*

See above analysis.

3. *I was not provided any support documentation for the alleged charges in the Resolution. [Roberts] states that as the accused, for fairness, the committee or*

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<sup>4</sup> The questions were copied verbatim from your letter. However, in some instances, your statements preceding the questions are not included for brevity.

*some of its members should meet with the accused to hear my side of the story before releasing the Resolution, and the committee should make an effort to learn all relevant facts. This was not done, so is the resolution valid (pg. 633, line 15-25)?*

See above analysis.

- 4. There are charges of me "displaying disregard; outburst, and outlandish behavior, causing unneeded disruption." If this was the case, according to [Roberts], the chairperson has the right to direct the recording secretary to take down the objectionable or disorderly words used by the member. Since January, there are no notations on the approved minutes that indicate the charges. Was there validity to adding such a charge to the resolution (Pg. 627, line 5-15)?*

As discussed above, fact-finding is not necessary when the alleged offense is internal and has been witnessed by the Commission members.

- 5. Standards and fairness dictate that in writing a resolution(s), that it should include a preamble that gives the reasons for the resolution. It is lacking in this document.*

There are no specific format requirements for censure resolutions.

- 6. Standards and fairness dictate that in writing a resolution(s), it should be free of errors of facts and law, and insinuations. Using paragraphs 4 & 6 as examples, to support the alleged charges, the paragraphs included information redacted from [e-mails], which if all the information in the [e-mails] was included, the reader would have a fair presentation of the alleged charge. Did 5C abuse the process by redacting the pertinent information to gain favor to justify the charges?*

Based on the information provided, it appears that most of the Commission members received the entire text of the e-mail. If it can be argued that the sending of the e-mail was an internal offense to which all Commissioners were witness, there would not be a required fact-finding. *See Roberts* at 627.

- 7. The Resolution section resolves "formal" determinations, judgments, sanctions and orders which allows for exclusion of committee memberships/chairs, for the remainder of my term. Does a chartered governmental advisory commission have the authority to do such, especially if the member is elected and no formally adopted investigative committee or no "trial" has been held to substantiate the alleged charges (First & Fourth Resolved)? Is this alleged standard applicable to other government boards and commissions?*

The censure resolution contains a warning that you may "stripped" of membership in any Commission committee for the remainder of your term. The Commission does not have authority to remove a member from a committee assignment, although there is also no corresponding right for a commissioner to serve on a

committee. See By-Laws, Article 10, Section 8. See also Article 10, Section 4 which allows for removal of chairpersons and vice-chairpersons of committees, but does not authorize removal of committee members.

8. 5C also resolved that I was to, **at my liberty**, to call a "Special Meeting" in my SMD, to answer the allegations. According to RR, this would be the responsibility of the chair or the assigned committee. Was this resolve legitimate?

See analysis above.

9. No where in the Resolved Section does it state any ability to be exonerated of the alleged charges. Does this mean that no matter the outcome at a "trial", my rights to due process can be ignored?

The Commission does have authority to censure your actions. As discussed above, you should be afforded a fair disciplinary process.

10. At the end of the resolved Section, a "Notation for the Record" is included. This is information redacted from an OAG Legal Opinion dated May 7, 1997, which was given at the request of then councilmember Kathleen Patterson, Chairperson of the Committee of Government Operations, which had oversight of the ANCs at that time. **The subject matter is: Advisory Neighborhood Commission members who fail to attend regular meetings.....**

*Was the inclusion of this edited paragraph of the actual Legal Advice which pertained to the members not attending meetings, the redacting of the first sentence regarding the lack of an ANC statutory provision for this issue misleading to the public, so to give the impression that I was, without trial, found to be in violation of a DC Code or regulation? Also, I have attended all 2009 meetings to date.*

While the objected-to information may not be germane to the resolution, it does not appear to be misleading as the resolution clearly specifies the offenses with which you have been charged.

11. If there is no statutory process for the DC Council, and the DC Council has oversight of the ANCs' which are [statutory "advisory bodies"], did 5C have the authority or standing to put forth this resolution?

See analysis above.

12. What is your legal opinion of the entire resolution and the process ANC 5C used to bring this about, and does it raise to the level of high crimes and treason, as a censure is usually applied?

See analysis above. Further, there is no requirement that the basis for a censure motion constitutes "high crimes and treason". *Roberts* states that an assembly may take disciplinary action against a member to enforce its rules. *Roberts* at 624.

Should you have any further questions, please contact me at 724-5386.

Sincerely,

PETER J. NICKLES  
Attorney General

By: Sheila Kaplan  
SHEILA KAPLAN  
Senior Assistant Attorney General  
Legal Counsel Division

Attachment



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**ADVISORY NEIGHBORHOOD COMMISSION 5C**  
 PO Box 77761  
 Washington, DC 20013  
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## Resolution of Censuring and No Confidence Vote for the Commissioner from 5C12

**Whereas**, the Commissioner from 5C12, has misrepresented herself to District of Columbia's Office of Contracting and Procurement (OCP), which notified the Office of the Advisory Neighborhood Commission (OANC) upon receiving a request from Ms. Ransom. OCP not only discovered Ms. Ransom hadn't be sworn in yet; but also, ANC 5C had not had an office in many years. The request was denied, and the Executive Committee of 5C subsequently was notified of the incident by the OANC. The Commissioner from 5C12, allegedly stated she was a seated ANC Commissioner and requested office furniture and equipment to be delivered to her home address, (not an ANC office) under the auspices of having an office for the ANC, without the knowledge and/or consent of ANC 5C's Executive Committee or Committee of the Whole.

**Whereas**, the Commissioner from 5C12, has caused the Commission to waste funds, not once, but twice; by approving two "proofs" of business cards provided by the Commission. Each time the Commissioner has failed to take possession of the cards because they were "not to her satisfaction"; such actions are hereby condemned. (Notation for the record: Let the record show not one other Commissioner has had an issue with the process of approval of proofs before the printing of such business cards in the history of 5C)

**Whereas**, the Commissioner from 5C12, has in writing to the Vice-Chairman of ANC 5C; carbon copying the Committee; (thus making her statements public), stated what the Commission feels are racist and bigoted comments, possibly violating the Vice-Chairman's civil and human rights; potentially committing hate crime; is quoted:

I really don't appreciate a white man, especially one who is gay, who gained his civil rights on the back of slaves & those of color who fought in the civil rights movement trying to control me or devalue my efforts. I am not a slave.

And quote: "Didn't I tell you that that I don't take orders from you"

Such language and verse is unacceptable and has no place in the business of this Commission, its members, nonetheless our Nation.

**Whereas**, the Commissioner from 5C12, has displayed consistent disregard, erratic outbursts and outlandish behavior causing unneeded disruption, most recently on the evening of May 6<sup>th</sup>, in which the Chair was forced to abruptly adjourn the Committee of the Whole meeting; thus halting the ANC 5C's process and business.

**Whereas**, the Commissioner from 5C12, has displayed disregard for the leadership on almost every occasion of the Commission's meeting and most recently to the Chair in which the Commissioner from 5C12 has questioned the Chair as to why an item has been placed on the agenda. It is apparent that the Commissioner from 5C12 is not willing to accept the rules of the Commission, and has disregard for the authority of the Chair who has the liberty of setting the agenda. Which this commission has noted in an email to the Chair, and quote the Commissioner from 5C12,

"I must point out that I still don't understand how you operate. I asked who decided to to add my parking situation and wanted to talk with you about it. I did not ask that it be removed. During my prior ANC experience, this did not happen out of respect and for order in the process.

**Whereas**, the Commissioner from 5C12, has over stepped her authority; SMD boundaries and has disrespected the Commissioner from 5C10, (by contacting Catholic University of America (CUA) directly) and has presented information in the form of a complaint to CUA about various issues; all without the consent of the Commissioner of 5C10, the Executive Committee or the COW.

Whereas, the Commissioner from 5C12, through her words, actions, and blatant disregard for the Commission, has failed to provide leadership in her capacity as the duly elected Commissioner of the Single Member District (SMD) of 5C12. The Commissioner's failure of leadership has caused the SMD 5C12's representation to be so diminished and severely compromised, to the point that it is almost invalidating; thus creating a lack of representation for that SMD.

**THEREFORE BE IT RESOLVED:**

Advisory Neighborhood Commission of 5C took formal action as a warning on this day in the form of: a "No Confidence Vote" and "Censure" of the Commissioner from 5C12, Ms. Albrete "Gigi" Ransom for the remainder of the term. The Commissioner from 5C12, Ms. Albrete "Gigi" Ransom is also thereby way of the Executive Committee and Chair, may be stripped of all memberships to any special and standing committees for the remainder of the term.

Advisory Neighborhood Commission of 5C takes this action, to ensure the citizens of the District of Columbia and with special consideration to the constituents of the SMD of 5C12, it is aware the Commissioner from 5C12, Ms. Albrete "Gigi" Ransom, has publicly shamed this Commission and failed SMD 5C12 in her leadership, behavior and her outrageous verse; thus possibly violating the civil and human rights of one our fellow Commissioners of ANC 5C.

Advisory Neighborhood Commission of 5C therefore will hold the Commissioner from 5C12, Ms. Albrete "Gigi" Ransom accountable and responsible for her actions. Thus, moving forward ANC 5C will enforce the by-laws of the Commission, including but not limited to the removal by way the Sgt of Arms, the Commissioner from 5C12, if such actions thus cause the Commissioner to be "out of order" or disruptive in the future.

Advisory Neighborhood Commission of 5C will afford the Commissioner from 5C12, Ms. Albrete "Gigi" Ransom, the opportunity at her liberty, to call a "Special"; properly public noticed; public meeting of the SMD 5C12 within 30 days, at an agreed to time and place in SMD 5C12 to answer the allegations set forth in this resolution. At the time of the special meeting, the Commission may elect to expunge, rescind or imposed further sanctions by way of amending and/or enforcing the bylaws.

*Notation for the Record:* In an opinion, from the Office of Corporation Counsel dated May 7, 1997

The ANC [may] try to persuade the commissioner to resign. Absent such a resignation, and assuming the commissioner continues to reside in the single-member district he or she was elected to represent, there are only two ways the commissioner can be removed from office:

(1) by being defeated at the next general election, or

(2) by being recalled from office pursuant to the recall process. A recall of an ANC commissioner may be initiated at any time during the middle (twelve months) of a two-year term. See D.C. Code § 1-1221

(c) (3) (1992). Thus, an ANC commissioner who was elected last November will become subject to the recall process starting in July of this year, i.e., six months after the commencement of the... two-year term of office.


Advisory Neighborhood Commission 5C is composed of twelve Commissioners, therefore seven Commissioners constitute a quorum that was present and voted.

Ten Commissioners were present and voted at the June 16, 2009 meeting.

**Adopted: June 16, 2009**

We therefore certify this resolution to be true and correct.

  
Chair, Anita Bonds

  
Recording Secretary, Sylvia Pinkney