

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



ATTORNEY GENERAL
KARL A. RACINE

Legal Counsel Division

June 6, 2017

Kathy Henderson
Commissioner, ANC 5D
1807 L Street, NE
Washington, DC 20002

Re: Supplementary Question Concerning Meeting Notice

Commissioner Henderson:

In our June 2, 2017 letter to you, we explained that electronic notice is one permissible way to notify residents of an Advisory Neighborhood Commission (“ANC”) meeting, so long as the ANC approves it, but it cannot be the only way. At least one other form of notice is required. On June 5, you asked us whether an ANC could satisfy statutory notice requirements by: (1) sending an electronic notice to a listserv; and (2) posting notice on an ANC website. The answer is that it could, as long as the ANC approved posting on a website as a form of meeting notice.

Before an ANC meets, it must notify the public. Under section 14(c) of the Advisory Neighborhood Commissions Act of 1975,¹ such notice:

must include, but is not limited to, at least 2 of the following:

- (1) Posting written notices in at least 4 conspicuous places in each single-member district within the Commission area;
- (2) Publication in a city or community newspaper;
- (3) Transmitting or distributing notice to a list of residents and other stakeholders in the community; and
- (4) In any other manner approved by the Commission.

An ANC could satisfy those requirements if it: (1) transmitted notice to a list of residents and stakeholders (option (3)); and (2) gave notice through another ANC-approved manner (option 4). Disseminating notices through a listserv and an ANC website could satisfy these requirements.

Sending meeting notice through a listserv composed of residents and other stakeholders could qualify as “transmitting or distributing notice to a list of residents and other stakeholders in the

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

community.” As we explained in a 2011 letter, the phrase “transmitting or distributing notice” “connotes active efforts by the Commission to provide notice to selected individuals.”² We emphasized that this notice could come through “electronic messages,” especially since the word “transmission” was meant to “provid[e] flexibility to the Commissions to use emerging internet technology.”³ We concluded that sending meeting notices to residents and other stakeholders through a Google Group could qualify as “transmitting or distributing” notice if the Group “provide[d] for an automatic transmission of messages that one member posts to all other members.”⁴ Likewise, sending meeting notices to residents and other stakeholders through a listserv qualifies as “transmitting or distributing” notice if the listserv automatically transmits that notice to those on the list.


Posting a meeting notice on the ANC website could qualify as another “manner approved by the Commission” as long as the ANC approved it by vote. If, however, the ANC intends to post meeting notices on a website, it should notify the public that it will do so, and disseminate a link to the website for easy public access.

Your request offered two reasons why these two methods would be insufficient. First, you noted that relying on these two electronic forms of notice could disadvantage individuals with limited Internet access. Because ANC notice should be calculated to inform the community of ANC meetings, that disadvantage is a significant policy concern that an ANC should consider carefully before relying on website and listserv notice. However, the question of what constitutes legally sufficient notice is a question of law, not policy, and we have identified nothing in relevant law that forbids an ANC from relying on these two electronic methods of notice. Second, you suggested that a listserv posting and a website posting are the same type of notification, not two different types. We disagree. A listserv directs messages to specific recipients; a website makes information available to the public at large. The fact that they are both electronic is not inherently problematic, just as it would not be inherently problematic to rely on two printed methods of notice, such as posting notice in the community and publishing it in a newspaper.

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
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² Letter to Vaughn Bennett, Comm’r, ANC 5B, Dec. 23, 2011, at 2 (on file).

³ *Id.* at 2-3.

⁴ *Id.* at 2-3.