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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ELECTIONS AND ETHICS
DISTRICT BUILDING
WASHINGTON, D.C. 20004-3084

April 22, 1992

COUNCIL

The Honorable James E. Nathanson
Chair, City Council Committee on Government
Operations
Council of the District of Columbia
District Building
Washington, D. C. 20004

Dear Councilmember Nathanson:

Thank you for a copy of your April 20, 1992, letter to Caesar L. Marshall, Jr., the Executive Secretary of ANC 6B. I appreciate your apprising me of your comments. I wish to clarify for your information, however, two (2) matters which you addressed in your response.

First, on page one (1), paragraph two (2), you state "[i]f [Mr. Marshall] makes arrangements, the Board will make available a letter certifying the eligible candidate(s) immediately upon the close of the challenge period." This statement implies that the Board will perform this task only upon request. However, this is routine procedure. At the close of business on the day upon which the challenge period ends, for any ANC vacancy, the Board normally makes available the list certifying the eligible candidates, provided that there are not any challenges filed pursuant thereto.

Second, on page two (2), paragraph three (3), you state "D. C. Code, §1-257(b) (1) and D. C. Law 9-88, §3(5) (E), when read together, suggest that the appointee may not assume to responsibilities of Commissioner until [certified by the Board] and the member is sworn in." Actually, the certification by the Board is a separate procedure that occurs before the selection process. Thereafter, the appointee becomes eligible to vote as a commissioner upon being sworn in by the Mayor or any member of the City Council. The basis for this provision emanates from D. C. Code, §1-501 (1987 Repl. Vol.) which reads:

All civil officers in the District shall, before they act as such, respectively take and subscribe an oath or affirmation to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices: and the oath or affirmation provided for by this section shall be taken and subscribed, certified, and recorded, in such manner and form as may be prescribed by law.

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As you know, this provision is implemented in the District by D. C. Code, §1-338.1 which reads, in part:

- The Mayor of the District of Columbia, the Chairman of the Council of the District of Columbia, and the members of the Council of the District of Columbia may administer oaths as part of their official responsibilities.

I hope that this has been of assistance.

Sincerely,



William H. Lewis
General Counsel

KSWms/LL