

Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL
DISTRICT BUILDING
WASHINGTON, D. C. 20004



December 24, 1987

IN REPLY REFER TO:

L&O:LNG:pmck
(87-106)(LCD 3018)

OPINION OF THE CORPORATION COUNSEL

SUBJECT: Whether the Department of Consumer and Regulatory Affairs may issue notices of infractions and impose fines against District government agencies and their contractors pursuant to the DCRA Civil Infractions Act of 1985.

Donald G. Murray
Director
Department of Consumer and
Regulatory Affairs
614 H Street, N.W.
Washington, D.C. 20001

Dear Mr. Murray:

This in reply to your December 1, 1987 memorandum requesting a formal opinion regarding whether the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985, D.C. Law 6-42, D.C. Code § 6-2701 et seq. (1987 Supp.) (Civil Infractions Act), authorizes the Department of Consumer and Regulatory Affairs (DCRA) to issue notices of infractions and impose fines against District government agencies and their contractors.

As noted in your December 1, 1987 memorandum, you addressed similar questions to this Office by memorandum dated May 1, 1987. By memorandum dated May 28, 1987, this Office, through Deputy Corporation Counsel Margaret L. Hines, responded to these questions. You now request reconsideration of that May 28, 1987 response in view of certain language contained in D.C. Law 5-48, the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983.

In regard to whether the Civil Infractions Act authorizes DCRA to issue notices of infractions to and impose

finances on District government agencies, our May 28, 1987 memorandum stated:

The Civil Infractions Act authorizes the Mayor to impose monetary fines as an alternative method of compelling compliance with enumerated District laws. The Mayor does not need such authority in order to compel agencies of the District government to comply with the law. As chief executive of the District government, the Mayor already has authority under the Charter to direct his subordinates to comply with applicable laws and regulations. See generally sec. 422 of the Self-Government Act, D.C. Code § 1-242 (1981). The Charter also sets forth an elaborate procedure by which the Mayor, the Council and ultimately, the Congress determine the budget of each agency. See secs. 442-452 of the Self-Government Act, D.C. Code § 47-301 et seq. (1981). Once an agency's budget has been adopted, a similarly elaborate procedure is required to transfer money from it to another agency. See the Reprogramming Policy Act of 1980, D.C. Law 3-100, D.C. Code § 47-361 et seq. (1981). There is no indication in the Civil Infractions Act or its legislative history that the act was intended to enable the Mayor to compel District government agencies to comply with the law. Nor is there any indication that the Civil Infractions Act was intended to amend established procedures for transferring funds from one agency to another. Therefore, the Civil Infractions Act does not empower the Department to issue notices of infraction to and collect fines from other agencies of the District government.

Upon reconsideration, I find that the quoted language correctly applies the well-established principle that one agency of government does not have the authority to compel another, absent some express statutory authority to do so. See, e.g.,