

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE CORPORATION COUNSEL



James H. Jones
Chairman
Advisory Neighborhood Commission 4A
District of Columbia Government
7600 Georgia Avenue N.W.
Suite 404
Washington, D.C. 20021

Re: Authority of ANC to Hire Legal Assistance

Dear Commissioner Jones:

By letter dated October 2, 2002, to former Corporation Counsel Robert R. Rigsby, you requested the position of the Office of Corporation Counsel on whether an Advisory Neighborhood Commission (the "ANC") has the power to hire legal assistance to represent it before a board, commission or agency of the District of Columbia government. In an October 9, 2002, conversation with Nancy Alper, Assistant Corporation Counsel, you explained that ANC 4A had passed a motion on October 1, 2002, authorizing the use of public funds to hire legal assistance. The purpose of legal assistance is to provide ANC 4A representation before the Alcoholic Beverage Control Board in a hearing on an application for renewal of a liquor license involving Geranium Market. The hearing is scheduled for November 6, 2002.

Section 3(d) of the Advisory Neighborhood Commissions Act of 1975, as amended by the Comprehensive Advisory Neighborhood Commissions Reform Amendment Act of 2000, effective July 27, 2000, D.C. Law 13-135, § 3(d), D.C. Official Code, § 1-309.13, 2001 Ed., sets forth the statutory restrictions governing the use of ANC funds. It is clear from the statute, that an ANC may not finance the legal representation costs of private persons or organizations in proceedings before District government administrative agencies. *See Kopff v. District of Columbia Alcoholic Beverage Control Board*, 381 A.2d 1372 (D.C. App. 1977); October 21, 1986 letter from James R. Murphy, Acting Corporation Counsel, to Otis H. Troupe, District of Columbia Auditor. However, it is also clear from the statute that an ANC may pay for its own legal expenses for representation before an agency, board or commission. Indeed D.C. Official Code, § 1-309.13(l)(2), 2001 Ed., specifically states as follows:

Funds allocated to the Commission may not be used for a purpose that involves partisan political activity, personal subsistence expenses, Commissioner compensation, meals, legal expenses other than for Commission representation before an agency, board or commission of the District government, or travel outside of the Washington metropolitan area (Emphasis supplied).

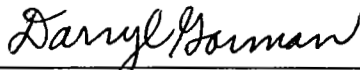
See also October 23, 2001 letter from Darryl G. Gorman, Senior Deputy Corporation Counsel for Government Operations, to Peter Pulsifer, Chair, Advisory Neighborhood Commission 2E.

Accordingly, since ANC 4A voted to hire legal counsel and since the purpose of legal assistance is to provide representation of ANC 4A before a board of the District of Columbia government, then payment for legal counsel out of ANC public funds would be legally permissible based upon the specific statute cited above.

If you have any questions or comments, please do not hesitate to contact Nancy Alper, Assistant Corporation Counsel, Legal Counsel Division at 724-5537, or me at 724-5493.

Sincerely,

ARABELLA TEAL
Interim Corporation Counsel



BY: Darryl G. Gorman
Senior Deputy Corporation Counsel
For Government Operations

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(AL-02-592)