

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



Legal Counsel Division

January 11, 2007

Stephen Whatley
ANC 4A03
7600 Georgia Avenue, N.W., Suite 404
Washington, D.C. 20012

Re: Whether an Advisory Neighborhood Commission May Adopt a Five-Year Budget?

Dear Commissioner Whatley:

This is in response to your letter to Eugene Adams, then Interim Attorney General for the District of Columbia, dated December 8, 2006. In your letter you advise that Advisory Neighborhood Commission (ANC) 4A adopted a five-year budget plan at its meeting on December 5, 2006, over your objection. You question whether it is appropriate for an ANC to adopt a budget for any period greater than a year.

Section 13(n) of the Advisory Neighborhood Commissions Act of 1975, as amended, effective October 10, 1975, D.C. Law 1-21, D.C. Official Code § 1-309.10(n) (2006 Supp.) (ANC Act) answers your question. It states succinctly:

(n) Each Commission shall develop an annual fiscal year spending plan budget for the upcoming fiscal year within 60 days of notification of the amount of the Commission's annual allotment. Prior to adoption of the budget at a public meeting, the Commission shall present the budget at a public meeting of the Commission to elicit comments from the residents of the Commission area.

Accordingly, the requirement that an ANC "shall develop an annual fiscal year spending plan budget" is unambiguous and necessarily precludes the adoption of any type of multi-year binding budget. That is not to say, however, that an ANC could not adopt a spending plan that exceeds one year, as long as it is understood that the only binding effect of any such plan would be the first year only. The remaining years of the plan would be no more than a statement of intent of projected spending and would not bind future Commissions to its proposed expenditures. The same or future ANC commissioners would still be required to act annually on the forthcoming year's budget pursuant to the requirements of D.C. Official Code § 1-309(n) (2006 Supp.) (i.e., each

year developing the budget within 60 days of notification of the annual allotment of funds, presenting it at a public meeting where the comments of ANC residents are elicited, and then adopting the budget at a public meeting)..

As for your query concerning the necessary remedial or administrative activity, if any, the ANC should undertake to rescind its action, that decision can be left to the ANC to pursue according to its by-laws or rules of procedure. If the ANC wishes to rescind the plan, it may do so, but it is not necessary that it do so because the plan, once again, cannot lawfully be binding. As stated above, any multi-year budget would be no more than a projected spending plan with no binding effect. The annual budget process that the ANC would continue to follow would, each year, effectively rescind the earlier plan if it differed from the prior multi-year plan in any way.

Accordingly, we conclude that an ANC may not adopt a multi-year binding budget, but may adopt a multi-year non-binding spending plan and must, in all cases, follow the annual budget process set forth in the ANC Act (D.C. Official Code § 1-309(n) (2006 Supp.)).

Sincerely,

LINDA SINGER
Attorney General for the District of Columbia

/s/

LS/dps

(AL-06-718)