

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



LEGAL COUNSEL DIVISION

March 15, 2010

Gottlieb Simon
Executive Director
Office of Advisory Neighborhood Commissions
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Re: May an outgoing officer continue to sign checks following the annual election of officers?

Dear Mr. Simon:

This is in response to your request for legal advice as to whether an outgoing officer may continue to sign checks to pay for an ANC's expenditures following the annual election of officers. You state that this question has arisen because there is often a transition period after an election during which the newly elected officers must become signatories on the ANC bank account and satisfy the statutory requirements for signing checks.

The ANC Act¹ imposes specific requirements for making expenditures by check. Section 16(f) (D.C. Official Code § 1-309.13(f)) requires that each check "[b]e signed by at least 2 officers of the Commission, one of whom shall be the treasurer or Chairperson."² Under Section 16(c) of the Act (D.C. Official Code § 1-309.13(c)), the treasurer and Chairperson are required to "file with the Auditor and maintain in force during their occupancy of their respective offices, a cash or surety bond in an amount and on a form satisfactory to the Auditor." However, the Act provides that the Commission's voluntary participation in the Advisory Neighborhood Commission Security Fund (Fund) established under section 17 of the Act (D.C. Official Code § 1-309.14) will satisfy the bond requirement. To be eligible to participate in the Fund, the Commission must make an annual contribution (\$25) to the Fund at the beginning of the fiscal year, and the treasurer and the Chairperson of the Commission must complete a form to be filed with the Auditor agreeing "to be personally liable to the Fund for any sum paid out by the Fund as a result of the treasurer or Chairperson's wrongful misappropriation or loss of

¹ The Advisory Neighborhood Councils Act of 1975, effective October 10, 1975 (D.C. Law 1-21, D.C. Official Code § 1-309.01) (2006 Repl. and 2009 Supp.).

² Another officer may be the co-signor of checks under D.C. Official Code § 1-309.13(f) provided that he or she is a signatory on the Commission's bank account.

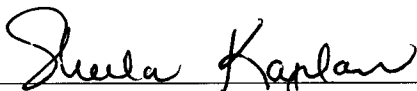
Commission monies.” D.C. Official Code § 1-309.14(b). Further, under D.C. Official Code § 1-309.13(c), no expenditure, whether by check or other payment, may be made by the Commission during the vacancy in the office of treasurer or at any time when the bond or its equivalent is not on file with the Auditor.

ANC officers serve one-year terms. Under section 14(e)(1) of the ANC Act (D.C. Official Code § 1-309.11(e)), an ANC election must be held in January of each year for all officers. The officers begin their terms upon election, unless otherwise provided for by the ANC’s by-laws. Once these new officers take office, the outgoing treasurer or chairperson (or any other outgoing officer who was a signatory to the Commission’s account) may not sign any checks for ANC expenditures. However, before the newly elected officers may sign checks, the Act requires that “the depository in which the Commission maintains a checking account shall be immediately notified of any change in Commission officers” D.C. Official Code § 1-309.13(f)(1), and the new treasurer and Chairperson must comply with the bonding requirements under D.C. Official Code § 1-309.13(c), by either securing a cash or surety bond or filing the required form with the Auditor to allow the Commission to participate in the Fund. These requirements are not onerous and can be satisfied in a short period of time.

In conclusion, the ANC Act provides that checks for expenditures must be signed by two officers, one of whom must be the treasurer or Chairperson who have met the bonding requirements.³ Following the short period after an election in which the newly elected officers, who have begun their terms, satisfy the requirements for signing checks, the outgoing officers do not retain any authority to sign checks as they no longer hold office and cannot satisfy the requirements under the ANC Act.

Sincerely,

PETER J. NICKLES
Attorney General

By: 
SHEILA KAPLAN
Senior Assistant Attorney General
Legal Counsel Division

cc: Lynard Barnum

(AL-10-077)

³ No expenditures may be made without the specific authorization of the Commission. D.C. Official Code § 1-309.13(f)(1).