

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



Legal Counsel Division

May 27, 2010

Gary Thompson
Chairperson
Advisory Neighborhood Commission 3/4G
P.O. BOX 6252 Northwest Station
Washington, DC 20015

Re: May an ANC can issue a grant to a church to support its work helping disadvantaged District residents?

Dear Chairperson Thompson:

This letter responds to your May 17, 2010 request for advice as to whether an Advisory Neighborhood Commission ("ANC") may make a grant of public funds to a church, in order to support its work helping homeless and disadvantaged DC residents become self-sufficient.

You indicate that ANC 3/4G received a request for a grant from the Chevy Chase Presbyterian Church seeking \$2,000 to support its Transitional Assistance Program ("TAP"), which seeks to help homeless and disadvantaged DC residents "move along paths to self-sufficiency." This includes helping them obtain the necessary documents to gain employment, seek housing, and register for day care.

By letter dated December 28, 1992 (copy attached), this Office advised ANC 8-B that it could make a grant to the A.P. Shaw United Methodist Church Recreation Department. This advice was contingent on the fact that the grant be for a public purpose and not establish religion in contravention of the First Amendment. The letter noted that the grant could be made only if: (1) the grant has a secular purpose; (2) the principal or primary effect of the grant is one that neither advances nor inhibits religion; and (3) the grant does not foster excessive ANC entanglement with religion. *See Roemer v. Board of Public Works of Maryland*, 426 U.S. 736, 747-748 (1976) (citing *Lemon v. Kurtzman*, 403 U.S. 606, 612-613 (1971)). This test, referred to as the Lemon Test, is still used today.

You also expressed concern that the funds would be granted to the Church, and not specifically to the TAP program. By letter dated September 14, 1987 (copy attached),

this Office advised ANC 6-B that it was permissible to grant funds to a private organization if the funds are granted for a public purpose.

Given the facts presented in your letter, it appears the proposed grant would satisfy the Lemon Test discussed above and will be used for a public purpose. Finally, this grant proposal is distinguished from that rejected in a letter dated June 25, 2004 (copy attached), where this Office advised ANC 8E that it could not grant funds to support a "Gospel Skate Night." There, it was determined to be impossible to separate the non-secular activity of roller-skating from the gospel theme of the event.

Provided that the Chevy Chase Presbyterian Church does not limit the aid given under the TAP program based on religious affiliation, the procedural requirements set forth in D.C. Official Code § 1-309.13(m) are followed, and the services provided under the grant do not duplicate those that are already performed by the District, *id.*, there is no legal objection to ANC 3/4G making a grant to the Chevy Chase Presbyterian Church for the purpose indicated.

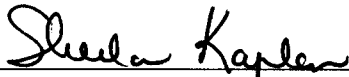
I hope that this information has been helpful to you.

Sincerely,

PETER J. NICKLES

Attorney General

By:



SHEILA KAPLAN
Senior Assistant Attorney General
Legal Counsel Division

cc: Deborah Nichols
Lynard Barnum

Attachments

(AL-10-262)