

# Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL

JUDICIARY SQUARE

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WASHINGTON, D. C. 20001



IN REPLY REFER TO:

September 17, 1999

Deborah K. Nichols  
District of Columbia Auditor  
Office of the District of Columbia Auditor  
717 14<sup>th</sup> Street, N.W.  
Suite 900  
Washington, D.C. 20005

Re: Expenditure questions from ANC 1E

Dear Ms. Nichols:

This responds to your letter of September 9, 1999, requesting advice regarding six different proposed expenditures by ANC 1E.

1. Can the ANC fund a neighborhood "Save the Elm Trees" project if there is no money available in the DPW trees budget to treat the trees in question?

According to Commissioner Jacques Rondeau there has been an on-going neighborhood effort to care for the trees that line Adams Mill Road. The trees are on public space; however, DPW has lacked the money to maintain them properly for several years. Another organization organized an effort to care for the trees over the last several years. The ANC would be sponsoring a tree by way of a grant. Grant funds would be used to pay for treatments on a tree during the past summer (June, July and August). This is a temporary situation since DPW's tree budget for next year is significantly expanded.

This office has previously concluded that the planting of trees in public space constitutes a public purpose. See March 5, 1992 letter to Stephen P. Belcher, ANC 3-F (attached). Therefore, I conclude that the care and maintenance of trees in public space is also a public purpose. Furthermore, the program does not duplicate an existing government program because of the lack of funding for DPW to maintain the trees. Therefore, the grant is permissible.

2. Can the ANC pay for a computer or donate toward the purchase of a computer at the Bancroft Elementary School?

Prior opinions of this office have advised that ANCs may not make grants to public schools because it would be considered a reprogramming of appropriations, which require certain

statutory procedures to be followed. See May 26, 1994 letter to Westy McDermid, ANC 2-E (attached). Therefore a direct grant to Bancroft Elementary School is impermissible.

3. Can the ANC contribute to the Latino American Youth Center, which is physically located in Columbia Heights but which supports at-risk Latino youths from Mount Pleasant?

Commissioner Rondeau describes the Latino American Youth Center as providing education programs, youth training, mentoring, job skills programs, and bilingual skills programs, among others. They do not sponsor recreational programs for youth.

The programs offered by the Latino American Youth Center meet the public purpose test. See June 3, 1991 letter to the Honorable James E. Nathanson (attached). Based on the representation that the Center provides support to youths living in the ANC, the grant appears to be permissible as long as the number of youths affected is significant.

4. Can the ANC contribute to support a playground development project for the Rosemond Day Care and Head Start Center in Mount Pleasant?

Commissioner Rondeau advises that the Center is funded through federal Head Start grants and private funding. The Center is on private property. The playground is fenced and secured and is available solely for the use of the children enrolled in the program. The Center has a capacity of 156 children, and currently enrolls 134.

In order for the grant to be for a public purpose, it must benefit, or potentially benefit, a significant number of persons. If a significant number of the children attending the Center are ANC residents, the public purpose test is met and the grant is permissible. See March 12, 1997 letter to Tom Coumaris, ANC 1-B, and follow-up letter dated March 25, 1997 to ANC 1-B (attached).

5. Can the ANC donate to support a Mount Pleasant athletic team sponsored by the MPD Boys and Girls Club?

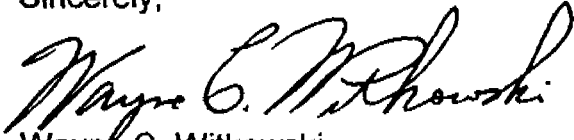
A grant to support an athletic team meets the public purpose test so long as the funds are not used to give clothing or equipment to individual members of a team. The grant must be conditioned on the MPD Boys and Girls Club retaining ownership of the clothing and/or equipment for future use by other young persons. See December 28, 1992 letter to Otis H. Troupe, D.C. Auditor, and October 20, 1994 letter to Alice W. Gilmore, ANC 4-B (attached).

6. Can the ANC make a donation in support of Turkish earthquake relief?

Since a donation to support Turkish earthquake relief would not benefit a significant number of persons who reside or work in the ANC area, the donation is impermissible.

If you have any further questions with regard to the above, please contact Annette Elseth, of my  
at 724-5537.

sincerely,



Wayne C. Witkowski  
Deputy Corporation Counsel  
Legal Counsel Division

LCD:ABE  
AL-99-491

Enclosures

cc:  
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