

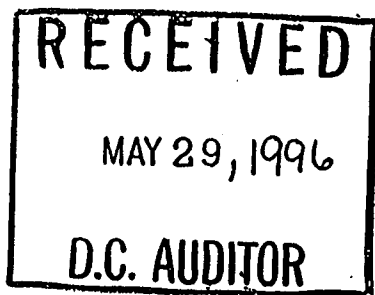
Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL

JUDICIARY SQUARE

441 FOURTH ST., N.W.

WASHINGTON, D. C. 20001



IN REPLY REFER TO:
OLC:LNG:lng
(AL-96-235)

May 28, 1996

Russell A. Smith
District of Columbia Auditor
415 12th Street, N.W., Room 210
Washington, D.C. 20004

Re: May an Advisory Neighborhood Commission use a credit card either directly or indirectly to purchase supplies or services?

Dear Mr. Smith:

This is in response to your May 10, 1996 request for the advice of this Office concerning whether it is permissible for an Advisory Neighborhood Commission (ANC) to pay for supplies and services with a credit card.

Subsections (f) and (h) of section 16 of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-264(f) and (h) (1992), address the subject of how an ANC may pay for the supplies and services that it needs to operate. These subsections provide as follows:

(f) Any expenditure of funds by a Commission shall be authorized in writing by the treasurer or Chairman and recorded by the treasurer in the Commission's books of accounts. No expenditure of any amount shall be made without the specific authorization of the Commission. Any expenditure made by check shall be signed by at least 2 officers of the Commission, one of whom shall be the treasurer or Chairman. The check shall, prior to signature, contain the date of payment, the name of the payee, and the amount of the payment. No check may be made payable to cash. Any check shall be prenumbered, shall bear the name of the Commission on its face, and shall be issued in consecutive order. The depository in which the Commission maintains a checking account shall be immediately notified of any change in Commission officers.

* * * * *

(h) Each Commission may establish a petty cash fund not to exceed \$50 at any 1 time in accordance with procedures established for imprest funds by the D.C. Controller. The fund shall be reimbursed by the treasurer upon the presentation of appropriate supporting documents. The treasurer may disburse to another Commission member or employee of the Commission an amount not in excess of \$50 for authorized Commission expenditures through a Commission-established petty cash fund. A record of disbursements from the petty cash fund shall be kept by the treasurer in a manner consistent with other accounts of the Commission.

Thus, section 16 expressly sets forth two ways an ANC may expend its fund, namely through the writing of checks and through cash disbursements from a petty cash fund. The general rule of statutory construction that is applicable here is expressed in Latin as follows: "Expressio unius est exclusio alterius." In the instant context this means that if the legislature has specified certain methods for making expenditures, it intends to exclude other methods. Since the use of a credit card by an ANC to make purchases is not expressly mentioned, we interpret the Council's intent in section 16 to prohibit an ANC from using this method to expend its funds. The exclusion of the use of a credit card not only prohibits an ANC from using a credit card directly to make purchases, but also indirectly through the issuance of an ANC check or the disbursement of cash from an ANC petty cash fund to reimburse a Commission member or employee of the Commission who makes purchases for the ANC with his or her own personal credit card.

In the context of purchasing office supplies of a relatively nominal amount, *i.e.*, costing less than \$50.00, the use of cash from the ANC's petty cash fund would be the most convenient means of paying for the supplies needed if payment is made at the point of purchase. Where the office supplies needed will cost more than \$50, an ANC check must be used to pay for them if the supplies are purchased in a single transaction. Thus, major purchases of ANC office supplies would require some advance coordination if the ANC payment check is to be tendered at the point of purchase. In such a case, two ANC officers who are authorized to sign the check (one of whom must be either the chairperson or the treasurer) must shop together.¹

¹ As noted above, section 16(f) of the Advisory Neighborhood Commissions Act, D.C. Code § 1-264(f) (1992), provides in part that "[n]o expenditure of any amount shall be made without the specific authorization of the Commission." We do not interpret this language to require that an ANC separately authorize each and every purchase of office supplies. If an ANC adopts an annual budget (see section 13(n) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-261(n) (1992), which sets forth an amount of

In sum, under existing law, ANCs may not use credit cards directly or indirectly to purchase goods or services. If you have any questions about this advice, you may contact Leo Gorman of this Office who may be reached at 727-3400.

Sincerely,

Karen L. Cooper

Karen L. Cooper *by LND*
Director
Office of Legal Counsel

cc: The Honorable Harold Brazil
Chairman
Government Operations committee
Council of the District of Columbia

Betty King
Director
Office of the Ombudsman

Ayo Bryant
Director
Office of Diversity and
Special Services

money that may be spent for office supplies, an expenditure for office supplies within that budgeted amount need not be separately authorized.