

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE ATTORNEY GENERAL



Legal Counsel Division

February 26, 2010

Villareal D. Johnson II  
ANC Commissioner, 7A  
4201 D Street, S.E.  
Washington, D.C. 20019

Re: Complaints Regarding Election of Officers and  
Investigation of Actions by Treasurer

Dear Commissioner Villareal:

This is in response to your February 1, 2010 letter to the Attorney General requesting an opinion regarding the manner in which the election of officers for ANC 7A was conducted on January 19, 2010 and on the investigation into an alleged mismanagement of that ANC's funds by its treasurer.

In your first complaint, you state that the election of officers for ANC 7A was improperly presided over by a former Commissioner rather than the Commission Chairperson. You allege that this procedure for conducting the election violates section 14(e)(1) of the Advisory Neighborhood Commission Act (ANC Act), effective March 26, 1976, D.C. Law 1-58, D.C. Official Code § 1-309.119(e)(1) (2009 Supp.) which states that "[t]he Chairperson shall serve as convener of the Commission and shall chair the Commission meetings."

Although the Chairperson has the responsibility to preside over Commission meetings, there is nothing in the ANC Act, and because ANC 7A does not currently have Bylaws<sup>1</sup>, there is nothing in the internal rules of the Commission that prohibits the Chairperson from temporarily relinquishing the chair to another person when necessary. Where procedures are not otherwise provided, Section 14(e)(3) of the ANC Act provides that ANCs shall be governed by Roberts Rules of Order (*Roberts*), which sets forth guiding parliamentary procedures. In regard to temporary relinquishment of the chair during a meeting, *Roberts* provides that if necessary, the Chairperson, subject to the approval of the members (which is assumed to be unanimous unless another person is nominated) may appoint another individual who has no impediment to presiding over the meeting to

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<sup>1</sup> This Office was advised by the Office of Advisory Neighborhood Commissions (OANC) and the ANC 7A Chairperson that that Commission has not approved Bylaws.

temporarily occupy the chair. Roberts Rules of Order, Newly Revised (10<sup>th</sup> Ed. 2000) at 382-383, 436.

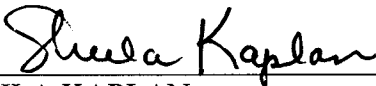
Based on a review of ANC 7A's minutes for January 19, 2010, it is our view that the temporary relinquishment of the chair to a former Commissioner for the purpose of conducting the ANC 7A election of officers was consistent with *Roberts*. A motion to take this action was made at the meeting by one of the Commissioners and was passed with no opposition indicated. Further, according to the OANC, allowing a neutral person to conduct the election is a common practice used by the ANCs to maintain a neutral environment for the election and avoid any appearance of impropriety.

Finally, you ask for a legal opinion regarding the current investigation regarding the financial practices of the current treasurer of ANC 7A. That investigation is being conducted by the Office of the Inspector General (OIG) pursuant to section 208 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986, D.C. Official Code § 2-302.08 (2009 Supp.). The Office of the Attorney General does not have any jurisdiction over OIG investigations. You should direct any inquiries or concerns regarding this matter directly to OIG.

If you have any further questions with regard to the issues discussed in this letter, please contact me at 724-5386.

Sincerely,

PETER J. NICKLES  
Attorney General

By:   
SHEILA KAPLAN  
Senior Assistant Attorney General  
Legal Counsel Division

(AL-10-68)