

Government of the District of Columbia



Office of Advisory Neighborhood Commissions
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MEMORANDUM

TO: ANC 3D
FR: Denise Wiktor, General Counsel
DT: December 7, 2023
RE: ANC Meeting Place

Two commissioners from ANC 3D asked if an ANC meeting where official action would be taken could be held in a private home if such meeting was available either to the public online only or if the public was allowed to attend in person. The primary reason for moving the meeting was to save on the rental fee incurred for the regular meeting place. It was additionally noted that “[t]he public is not showing up in person in any meaningful way.” In either scenario, a meeting in a private home would not be appropriate for the reasons as outlined below. A meeting in a private home is not reasonably designed to accommodate the residents, has potential ADA issues, and whether the public would perceive the meeting to be open to them.

The Official Code of the District of Columbia states that:

Each Commission shall meet in public session at regular intervals at least 9 times per year *at locations that are designed to reasonably accommodate the residents of the Commission area*, depending on the issues to be considered by the Commission. (§ 1–309.11 (b)(1))
(emphasis added)

The location of an ANC meeting should be neutral so that it doesn’t intimidate or otherwise prevent a community member from participating in any way. Additionally, an ANC does not have the authority to determine what is meaningful engagement and what may not be - especially since time must be set aside at every meeting specifically to hear concerns from the community. The ANC, and the Chair as the presiding official, does have the ability to determine if the engagement is germane to the issue or topic at hand and provide necessary instruction when needed.

Temporary legislation permits participation of Commissioners remotely. That section of the D.C. Official Code states:

Notwithstanding any other provision of law, an Advisory Neighborhood Commissioner may call a meeting and remotely participate in that meeting and vote on matters before the Commission without being physically present through a teleconference or through digital means identified by the Commission for this purpose. Members physically or remotely present shall be counted for determination of a quorum. (§ 1-309.11 (b)(1C))

The scenario presented is not intended to be a remote meeting. It is a meeting in a physical place that has an expectation of in person attendance for Commissioners. As such, the portion of the statute that states that meetings need to be "at locations that are designed to reasonably accommodate the residents" would require that the meeting be at a location and space accessible to any constituent who wishes to attend in person.

Additionally, "[e]ach Commission, including each committee of a Commission, shall be subject to the open meetings provisions of § 1-207.42. No meeting may be closed to the public unless personnel or legal matters are discussed."¹ When the City Council amended the open meetings law in 2000, they indicated a "legislative intent that **all** meetings now be open, regardless of the matters addressed in the meeting (unless they meet the stated exceptions), or whether they culminated in a vote by commissioners."² Conducting a meeting that is either not open to public participation or held in a location that does not reasonably accommodate the public would violate the code's mandate for open meetings.

The desire to save the \$450 cost of renting a space is understandable, however, one of the reasons ANCs receive funds is for operation of the ANC. Choosing a location that prevents or discourages public attendance at an ANC meeting for this reason could lead to a challenge of the meeting's legitimacy and possibly lead to any actions taken by the Commission being vacated. Such a challenge would be made easier if the Commission places the meeting costs into their budget.

Please let us know if you have any further questions on this issue.

¹ D.C. Official Code §1-309.11(g)

² See page 4 *Letter to Gottlieb Simon, July 21, 2017*, found at <https://oag.dc.gov/sites/default/files/2018-02/ANC-July-21-2017-Open-Meetings-Question.pdf>