



MEMORANDUM

DATE: April 25, 2005

TO: The Honorable Mayor
and Council Members

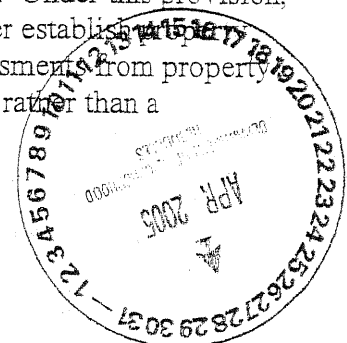
FROM: Mike Rankin *MR*
City Attorney
x 4221

RE: DNR Support for Registered Neighborhood Associations

Both the Department of Neighborhood Resources (DNR) and the City Attorney's Office periodically receive complaints from individual members of neighborhood associations alleging violations of association bylaws or charter provisions. In some instances, the complainant desires to have DNR or this office impose sanctions upon the association or upon an officer of the association, either by revoking the association's registration with the City or by declaring that the election of the officer is void. A recent complaint concerning the South Harrison Neighborhood Association, and DNR's response to that complaint, has revealed that there is some confusion about the scope of DNR's authority to involve itself in the internal affairs of registered neighborhood associations. Because the Mayor and Council have such a strong interest in the City's relationships with neighborhood associations, I am distributing this memorandum as an update describing the guidelines for neighborhood association registration and the criteria for denial or discontinuance of DNR's support for these associations.

Arizona law recognizes the City's authority to register neighborhood associations and to establish procedures for that registration. *A.R.S. §§ 8-385.01; 13-4401.01*. Consistent with this statutory authority, on July 6, 1992, the Mayor and Council approved guidelines for neighborhood associations desiring registration with the Citizen Participation Office (which later became CNS and is now DNR) of the City of Tucson [*attached*]. These guidelines establish the requirements that neighborhood associations must satisfy in order to register with the City and to receive support services through DNR. Generally, the requirements include the filing of contact information, membership lists, and copies of the association's bylaws and/or charter. Also, under the Council-approved guidelines, the association cannot have boundaries that overlap those of another association; and the association must allow all residents, and not just property owners, to be members and to participate in meetings.

In addition to establishing the requirements for registration, the adopted guidelines also state the criteria for DNR to restrict or deny support services to an association. The grounds for restricting or denying services are stated in paragraph G of the guidelines. Under this provision, DNR will deny or restrict its services if the association's bylaws or charter establish owner rights, set forth deed restrictions or covenants, or provide for assessments from property owners; or where the association functions as a homeowners' association rather than a



neighborhood association; or where the association is improperly registered by an individual who is not a resident of the area in question.

The guidelines approved by the Mayor and Council do not provide DNR with any authority to revoke or deny its services based on allegations by association members that an officer of the association has failed to follow a bylaw requirement, or that an election was conducted improperly. DNR would have the authority to impose such a sanction only in the event that the complaint was related to one of the registration requirements or grounds for revocation that are stated in the adopted guidelines. So, for example, if an association attempted to expand its boundaries to include part of another association, DNR would refuse to register the association under its "new" boundaries under paragraph (C)(1) of the guidelines. As another example, if a neighborhood association amended its bylaws to limit membership to homeowners, DNR would terminate support under paragraph (G)(2) of the guidelines.

In addition to the adopted registration guidelines, the City imposes certain other limitations upon its support of registered neighborhood associations. As you all are aware, DNR imposes restrictions upon its distribution of neighborhood newsletters. Like the registration guidelines, these restrictions were approved or directed by the Mayor and Council. For example, the prohibition against newsletters that contain references to ballot issues or political candidates, as incorporated in Administrative Directive 1.06-22, was adopted at the direction of the governing body as given on July 1, 1991. Additional Council policies prohibit DNR from disseminating newsletters that contain slanderous material; or that contains commercial advertising. *See Policy No. 510-05, Mayor and Council Policy Manual.* Finally, certain restrictions are in place as a result of the City's legal obligations, such as a prohibition against expending City resources for political advocacy or the prohibition against supporting an association that discriminates based on race, gender, national origin, etc.

Any recent examples of DNR intervention in neighborhood association affairs have been related to the articulated policies or guidelines, such as DNR's involvement in the resolution of a boundary dispute in the North Dodge area. In cases that do not implicate the articulated policies, the individual association members must resolve their complaints through the association itself and through the remedies provided in the association's bylaws and/or charter. For example, many association bylaws, including South Harrison's bylaws, provide for the removal of officers by a majority vote of members participating at a meeting.

The governing body has never directed DNR to monitor neighborhood associations' compliance with their bylaws or internal rules, or to make its support of neighborhoods contingent upon such compliance. This is likely due to the fact that the City has no defined regulatory authority to enforce the bylaws of these private entities, along with the reality that DNR has nowhere near the resources that would be needed to investigate and respond to complaints about rules or bylaw violations that might occur in the operation of the more than 140 registered neighborhood associations in Tucson. In other words, DNR has neither the resources nor the authority to act as the policing agency for these private associations.