

Date: July 8, 2013

To: Members Austin Independent Citizen's Redistricting Commission

From: Peck Young

Re: Points discussed at the last meeting of the ICRC

Can someone be sworn in as a Commissioner while outside of Austin? Our team has researched the issue and this is what the Texas code shows:

Tex. Govt. Code § 602.003. OATH MADE OUTSIDE TEXAS BUT
INSIDE UNITED
STATES. An oath made outside this state but inside the
United
States or its territories may be administered and a
certificate of
the fact given by:
 (1) a clerk of a court of record having a seal;
 (2) a commissioner of deeds appointed under a law
of
this state; or
 (3) a notary public.

Added by Acts 1993, 73rd Leg., Ch. 268, § 1, eff. Sept. 1,
1993.

Therefore, the answer is YES if a procedure is worked out with Ms. Cocco and a copy of the oath is sent to her. It appears to us that a notarized document attesting to the event would have to be provided to the City Of Austin to verify that the oath was properly executed and it could be done out of town.

This does not, however, clear up the issue of Ms. Cocco's potential absence from a majority of meetings for three months.

- a. First the City technical staff must tell you where and if you can hold meetings that comply with the new law that allow her to participate electronically.
- b. Second, it must be determined if she is available for extended periods of time on Wednesdays while she is caring for a sick relative?
- c. Finally deadlines need to be set:
 - i. Now that it is known Ms. Cocco can take the oath, she should do so before the next meeting.
 - ii. By the next meeting a procedure should be in place for her to participate electronically or it should be determined that this is impossible.
 - iii. Once it is known if she can or cannot participate electronically, then the body can move on from this issue or it can take the necessary steps to determine if Commissioner Cocco needs to be replaced.
- d. Please remember that under 3 (J)(1) if you find that Ms. Cocco is in "substantial neglect of duty" as defined in 3(A)(5) (or 3(A)(7) in the charter you have received) as "Missing half or more of the meetings in a three month

period...” then the member found in “substantial neglect” must be “...served written notice and provided with an opportunity to respond...” This member then ...” may be removed by a vote of ten of the Commissioners” 3(J)(1).

e. Last, here is the procedure from 3(J)(2) for filling a vacancy if any occurs:

“(2) Any vacancy, whether created by removal, resignation, or absence, in the fourteen (14) commission positions shall be filled by the Commission within fifteen (15) days after the vacancy occurs, from the remaining pool of applicants and in compliance with the applicant requirements of subsection 3(I)(8). Nine (9) members must agree to any appointment.” Our understanding of the Charter section is that the ICRC must choose from the remaining members of the pool of original 60. It must also pay attention to the requirements for geographic, gender and ethnic and racial balance required in 3(I)(9).

AGR wishes to emphasize its recommendation for an Asian appointee to replace Ms. Cocco, if a replacement becomes necessary. We feel strongly that the size of the Asian community and its rapid growth justifies this appointment.