



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-197200

January 7, 1980

The Honorable Fortney H. Stark
House of Representatives

Dear Mr. Stark:

This is in response to a recent letter from your office requesting on your behalf our answers to the following question: Is it a violation of the District of Columbia Home Rule Act (Self-Government Act) for the City Council (Council) to have enacted legislation affecting the location of foreign chanceries in the District? Your reference is to Bill 3-47, called "The Location of Chanceries Act of 1979." The enactment would amend D.C. Code §5-418(c).

You asked that we expedite our response so that you would have it available for congressional debate on the Resolution to disapprove the District's enactment. Therefore, we have not been able to give this matter as much consideration as we would like. However, we hope the following will be of assistance to you.

We believe that both the letter and the spirit of the District of Columbia Self-Government and Governmental Reorganization Act, Pub. L. No. 93-198 (1975), preclude the Council from enacting a law which interferes with the Federal/international character of the District. The law in question would limit the areas in which foreign governments could locate official missions in the District of Columbia.

Prescribing or limiting the location of chanceries is in our view a zoning and planning function subject to the limitations in the Self-Government Act. Section 492 of the Act vests all zoning authority in the District Zoning Commission created by the Act. The Zoning Commission consists of the Architect of the Capitol, the Director of the National Park Service and three members appointed by the Mayor and confirmed by the Council. Thus, both Federal and District interests are represented on the Commission, but Federal interests are not represented on the Council. While the Self-Government Act is intended to give the District Government substantial authority over local land use planning, the Federal interest is further protected through the functions of the National Capital Planning Commission (NCPC). The planning provisions of section 203 of the cited Act were enacted for the purpose of preserving NCPC's role and this statutory provision is beyond the amendatory authority of the Council. Section 203(a) of the Act vests ultimate authority in NCPC to bar adoption by the District of any

element of the comprehensive plan for the National Capital which the NCPC finds to have a negative impact on the interests or functions of the Federal Establishment. Thus, the legislative powers of the Council are limited by the zoning and planning provisions of the Self-Government Act.

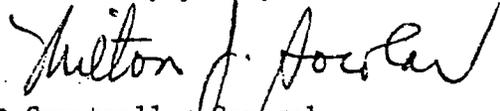
The bill enacted by the Council would have the effect of circumscribing the Zoning Commission's authority to comply with the Self-Government Act's mandate that zoning regulations not be inconsistent with the comprehensive plan and would also preclude meaningful review by NCPC.

Moreover, the Council's legislative powers are further limited by the language in section 602(a)(3) which precludes the Council from enacting any act "* * *" which concerns the functions or property of the United States or which is not restricted in its application exclusively in or to the District."

In this regard the Council's enactment substantially curtails the areas in which foreign governments could locate official chanceries in the Capital. This is particularly true in light of the fact that the NCPC adopted a Federal plan in October 1977, entitled "The Foreign Missions and International Agencies Element of the Comprehensive Plan," which provided for chancery locations and the enactment of Federal legislation providing for the location of chanceries and other business offices of foreign governments in the District of Columbia, Pub. L. No. 88-659, approved October 12, 1964, 78 Stat. 1091. The Council's action is inconsistent with NCPC's plan, and limits chanceries to locations which are considered unacceptable from a Federal viewpoint. The Federal interest is also mandated because of a treaty signed by the United States in 1961 and implemented in 1972 (23 UST 32 TIAS 7502) in which the United States agreed to assist foreign governments to obtain suitable chancery premises in the Capital. Given this obligation, which the State Department feels the District's law would interfere with, the Council's enactment clearly concerns the functions of the United States.

Accordingly, it is our opinion that the Council acted without authority in enacting legislation affecting the location of chanceries in the District. We hope that this has been responsive to your request.

Sincerely yours,



For The Comptroller General
of the United States