

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2021-038**

March 18, 2021

VIA ELECTRONIC MAIL

Ms. Vicki Piontek

RE: FOIA Appeal 2021-038

Dear Ms. Piontek:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 (“DC FOIA”). In your appeal, you assert that the Metropolitan Police Department (“MPD”) failed to properly respond to your DC FOIA request for public records.

Background

You submitted a DC FOIA request to MPD for applications made by persons or entities for permission to do sidewalk or street chalking—specifically, all permits given by the Metropolitan Police Department to Students for Life of America and/or the Frederick Douglas Foundation for sidewalk chalk painting or for any other purpose in 2020. You also sought copies of all denials of permits by the D.C. Metropolitan Police Department to Students for Life of America and any correspondence with that group. MPD initially responded to your request by stating that it had no responsive records, but noted that the types of permits you inquired about are under the purview of the District Department of Transportation (DDOT).¹ MPD further suggested that you could contact DDOT to attempt to obtain the records you were seeking. After you appealed, MPD reviewed its records again and identified two pages of records that it had inadvertently overlooked while processing your request. Those records included correspondence between MPD and Students for Life America, as well as an Assembly Plan Approval issued by MPD to that group.

Discussion

It is the public policy of the District of Columbia government that “all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees.” D.C. Code § 2-531. In aid of that policy, the DC FOIA creates the right “to inspect . . . and . . . copy any public record of a public body.” *Id.* at § 2-532(a).

¹ A copy of MPD’s response to your appeal is attached.

Your appeal challenges the adequacy of MPD's search for records. You claim that MPD's assertion that it lacked responsive records "is disingenuous because permits for sidewalk chalking were obtained by Students Life of America and / or the Frederick Douglas Foundation." However, as MPD explained in its response to you, permits of that nature fall under the purview of DDOT and not MPD. As a result, those are not the type of records that would be in the possession of MPD.

Moreover, the agency has now reviewed its records and produced to you its correspondence with Students for Life America. That correspondence also includes an Assembly Plan Approval, which is responsive to your request for "all permits" issued by MPD "for any other purpose" to Students for Life America during 2020. MPD has thus now provided you with all responsive documents in its possession.

We therefore conclude that MPD properly responded to your DC FOIA request and we hereby deny your appeal. This constitutes the final decision of this Office with regard to your appeal. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with DC FOIA.

Respectfully,

Mayor's Office of Legal Counsel

cc: Robert Eckert, FOIA Specialist
MPD (via email)