

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2021-082**

March 18, 2021

VIA ELECTRONIC MAIL

Mr. Vincent Phillips

RE: FOIA Appeal 2021-082

Dear Mr. Phillips:

This letter responds to the administrative appeals you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 (“DC FOIA”), on the grounds that the Department of Housing and Community Development (“DHCD”) improperly responded to your FOIA requests.

On November 27, 2020, you submitted your first FOIA request, 2021-FOIA-01327, seeking:

All documents and all filings from all agencies and departments from February 3, 2020 to November 27, 2020 for:

- 1255 Pennsylvania Street NE;
- 93 Hawaii Avenue NE;
- 98 Webster Street NE;
- 217 20th Street NE;
- 1236 Raum Street NE;
- 1240 Raum Street NE; and
- 225 20th Street NE.

Then on January 8, 2021, you submitted your second request, 2021-FOIA-02053, seeking all Tenant Opportunity to Purchase Act (“TOPA”) documents on the TOPA Filings Report Week of April 13-16, 2020.

You filed your appeal with this Office on February 1, 2021, because you had not received a response to your FOIA requests. On February 9, 2021, DHCD filed a response to your appeal.¹ In the response, DHCD indicated that it provided you with documents, with privacy-related redactions, responsive to 2021-FOIA-01327 on February 4, 2021. Additionally regarding 2021-FOIA-02053, DHCD indicated that on February 4, 2021, it provided you with responsive documents with privacy related redactions and notified you the agency was only able to provide a partial response because DHCD is unable to conduct a full onsite review as a result of the

¹ A copy of DHCD’s response to your appeal is attached to this decision.

agency's closure due to the COVID-19 public health emergency.

2021-FOIA-01327

Regarding your first FOIA request, 2021-FOIA-01327, since your appeal only challenged DHCD's failure to respond to your request and DHCD provided you with responsive documents with privacy-related redactions, we dismiss this part of the appeal as moot. However, you may file a new appeal if you are dissatisfied with the records produced by the agency.

2021-FOIA-02053

Under D.C. Official Code § 2-532, the District of Columbia has fifteen (15) business days, subject to the possibility of a ten (10) business-day extension, to respond to your public record request as of the date of receipt. However due to the COVID-19 closure, this deadline was not applicable for FOIA requests made between March 11, 2020 and January 15, 2021. Under the FOIA Tolling Emergency Amendment Act of 2020 (D.C. Act 23-0555, effective December 22, 2020), a FOIA request made between March 11, 2020 and January 15, 2021 must be processed within 45 business days after January 15, 2021. If the processing of a FOIA request presents the need to conduct an on-site review of records during the time when the Mayor of the District of Columbia has declared a public health emergency or if the agency is closed due to COVID-19, the request may not be processed until 45 days after the public health emergency or COVID-19 closure has ended.

Since you filed your request, 2021-FOIA-02053, with DHCD between March 11, 2020 and January 15, 2021, DHCD is still within its statutorily permitted period to provide you with responsive documents. Additionally because DHCD indicated that an on-site review is necessary to fully process your request and that the agency is still closed due to COVID-19, DHCD will be required to fully process your request within 45 days of the end of the public emergency or the COVID-19 closure.

Based on the foregoing, we conclude that DHCD's time to respond to request 2021-FOIA-02053 has not lapsed and hereby deny this portion of the appeal. We encourage DHCD to provide you with an update of the end of the public emergency or the agency's COVID-19 closure, as well when you should expect any responsive documents to this request.

This constitutes the final decision of this Office. 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 D.C. Official Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: Tonya Condell, Assistant General Counsel
DHCD (via email)