

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2021-239**

March 28, 2022

VIA ELECTRONIC MAIL

Mr. Edward Hanlon

RE: FOIA Appeal 2021-239

Dear Mr. Hanlon:

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”), on the grounds that the Office of Advisory Neighborhood Commissions (“OANC”) constructively denied your DC FOIA request for public records.

On behalf of Dupont East Civic Action Association, you submitted a DC FOIA request seeking a copy of every email and text message exchanged by the Chair of ANC 2B and four named individuals between January 1, 2019, and March 7, 2021. Additionally, you specified that your request included “every email address [the Chair of ANC 2B] used/uses.”

When OANC did not respond within the statutory time period, you submitted the instant appeal requesting that the records be supplied within 10 business days of your appeal. As OANC explained in its response to this Office, it is working with you on multiple outstanding FOIA requests and “requests in this appeal were not intentionally denied but were not processed in the expected and normal fashion due to administrative error that was not recognized until after the appeal was filed.”¹

Under D.C. Official Code § 2-532(e), a constructive denial occurs when an agency fails to respond within the timing requirements established in D.C. Official Code §§ 2-532(c) and (d). This Office has no authority to extend the maximum deadline for responding to a DC FOIA request, which is 25 business days. D.C. Official Code § 2-532. Based on the record before us, we conclude that OANC has constructively denied your request. Therefore, we remand this matter to OANC and direct it to promptly conduct a search for responsive records and disclose to you any non-exemption portions of responsive records.

This constitutes the final decision of this Office. However, you are free to challenge any substantive response you receive from OANC by separate appeal to 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 DC FOIA.

Sincerely,

Mayor's Office of Legal Counsel

¹ A copy of the agency's response to your appeal is attached to this decision.

cc: Kathy Williams, FOIA Officer,
OANC (via email)