

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2021-266**

October 13, 2021

VIA ELECTRONIC MAIL

Mr. Edward Daniels

RE: FOIA Appeal 2021-266

Dear Mr. Daniels:

This letter responds to the administrative appeal you submitted under the District of Columbia Freedom of Information Act, D.C. Code § 2-537 (“DC FOIA”), alleging that the District of Columbia Housing Authority (“DCHA”) failed to respond to your DC FOIA request.

You claim that you submitted a request for records related to redevelopment plans for Greenleaf in a June 22, 2021 letter to DCHA Director Brenda Donald. When you did not receive a response, you attempted to appeal to the District’s Attorney General. When DCHA was made aware of your attempt to appeal to the Attorney General, the agency responded to this Office.¹

As an initial matter, the Attorney General has no jurisdiction over appeals of FOIA denials made by District agencies. Rather, pursuant to D.C. Code § 2-537(a), the Mayor is responsible for adjudicating those appeals. That authority is exercised by the Mayor’s Office of Legal Counsel, which is where you should have directed your appeal.

In any event, DCHA’s FOIA Officer represents that she was never sent or made aware of your request for records. As a result, the agency explains, your request was never processed under FOIA. If no FOIA request was properly submitted, as the agency maintains, then the agency has not failed to comply with its statutory responsibility.

Your appeal suggests that you sent a request only to the Director and not to the agency’s FOIA Officer. Although the DCHA website provides a mailing address, fax number, and email address to receive FOIA requests, it does not appear that you followed that procedure. The intent of this procedure is to centralize requests for records so that they do not fall through the cracks. In that vein, while it is true that FOIA requests can sometimes be sent directly to an agency head, that is generally only the case when the agency does not have another employee acting as the FOIA Officer.²

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

² 1 DCMR § 402 (“A written request may be mailed, faxed or e-mailed to the agency Freedom of Information Officer, or agency head *in the absence of a designated Freedom of Information Officer.*” (emphasis added)).

We agree with the agency that you did not submit a proper DC FOIA request and that the agency was not required to respond. We therefore deny your appeal. If you wish to make a request for records from DCHA under the DC FOIA, you may follow the procedures specified by the agency for receiving FOIA requests. In particular, the agency suggests forwarding any request for documents to foia@dchousing.org. If after submitting a proper DC FOIA request you are dissatisfied with the agency's response, you may appeal to this Office.

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 in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: Kimberly J. August, Managing Senior Associate General Counsel / Interim FOIA Officer
DCHA (via email)