

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
EXECUTIVE OFFICE OF THE MAYOR  
MAYOR'S OFFICE OF LEGAL COUNSEL  
Freedom of Information Act Appeal: 2022-043**

February 1, 2023

**VIA ELECTRONIC MAIL ONLY**

Ms. Roxana Mondragon

RE: FOIA Appeal 2022-043

Dear Ms. Mondragon:

This letter is in response to the administrative appeal that you have submitted to the Mayor pursuant to the District of Columbia Freedom of Information Act ("FOIA"), D.C. Code §§ 2-531, et seq. In your appeal, you have challenged the response of the Office of Advisory Neighborhood Commissions ("OANC") to your DC FOIA request.

Background

On October 29, 2021, you submitted a DC FOIA request to OANC which sought the following:

- A. All documents and materials including, without limitation, emails, text messages, and voicemails, from 2021 concerning the use of the field next to John Burroughs Elementary School by any sports team or sports club, including, without limitation, any complaints or grievances received from ANC 5B constituents regarding such use.
- B. All correspondence with or about Brookland Football Club, also known as "Brookland FC," or Tom Walsh.
- C. All documents and materials including, without limitation, emails, text messages, voicemails, screenshots of websites or social media posts, and hard copy documents, reflecting (i) how Commissioner Amin shared the ANC 5B budget for 2022 with constituents in advance of the October 27, 2021 ANC 5B meeting; or (ii) that Commissioner Amin received or responded to constituents' questions or concerns regarding the ANC 5B budget for 2022 prior to October 27, 2021.
- D. All documents and materials including, without limitation, emails (whether from personal accounts or ANC 5B accounts), text messages (whether from personal phones or ANC-provided phones), voicemails, screenshots of websites or social media posts(whether from personal accounts or ANC 5B accounts), and hard copy documents regarding the proposed changes to the

ANC 5B bylaws concerning sanctions or censures including, without limitation, all drafts of such proposed changes to the bylaws and any discussion about the intent or purpose behind such proposed changes to the bylaws.

- E. A copy of the contacts list stored in the mobile phones used in 2021 by the Commissioners of ANC 5B01, ANC 5B02, and ANC5B04 that includes all available metadata fields including, at a minimum, the name, phone number, and affiliation of each individual in the contacts list.
- F. Any 2021 correspondence with the individual identified only as "Concerned Citizen" in the October 27, 2021 ANC 5B WebEx chat.
- G. A copy of the lease agreement for the printer leased by ANC 5B.
- H. A copy of all detailed reports for 2021 related to ANC 5B Cisco Webex Teams and/or Cisco Webex Meetings account usage.
- I. Documents and materials including, without limitation, emails, text messages, and voicemails, from 2021 regarding the deletion or destruction of any ANC 5B record.

Following OANC's request for clarifying information, on November 29, 2021, you provided an addendum to your request. Within this addendum, you stated "[p]roposed search terms/additional explanation of what FOIA requester is seeking." In addition, subparts F and G of your original request were rescinded.

On December 7, 2021, OANC denied your request because it still did not adequately describe the records sought. OANC specifically asserted that "you continue to request documents which make it unclear as from whom you are seeking the material." OANC did provide you with a link to financial information pertaining to ANC 5B.

You filed an appeal with this Office on December 17, 2021 challenging OANC's determination that your request was overly broad. You noted that some subparts such as "E and H, are not requests for emails at all, but rather requests for specific documents that could easily be gathered independent of any email search."

This Office notified OANC of your appeal on January 4, 2022 and requested a response. On January 11, 2022, OANC responded by reiterating its position that you did not submit a proper DC FOIA request because you "discussed the FOIA request in general and all-purpose words and phrases, without citing any pertinent terms with which to search records."

## Discussion

It is the public policy of the District of Columbia 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, DC FOIA creates the right “to inspect . . . and . . . copy any public record of a public body . . .” D.C. Code § 2-532(a).

DC FOIA was modeled on the corresponding federal Freedom of Information Act. *Barry v. Washington Post Co.*, 529 A.2d 319, 321 (D.C. 1987). Accordingly, decisions construing the federal statute are instructive and may be examined to construe the local law. *Washington Post Co. v. Minority Bus. Opportunity Comm’n*, 560 A.2d 517, 521, n.5 (D.C. 1989).

### *Adequacy of Request*

The issue in this appeal is whether the request adequately describes the records sought. A request shall reasonably describe the desired records. *See* 1 DCMR § 402.4. Where possible, specific information regarding names, places, events, subjects, dates, files, titles, file designation, or other identifying information shall be supplied. *Id.* A request for “any and all documents” does not describe the records sought with “reasonably sufficient detail.” *Dale v. IRS*, 238 F. Supp. 2d 99, 104 (D.D.C. 2002) (“[T]he rationale for this rule is that FOIA was not intended to reduce government agencies to full-time investigators on behalf of requesters.” *Assassination Archives & Research Ctr. v. CIA*, 720 F.Supp. 217, 219 (D.D.C.1989).

Where the information supplied by the requester is not sufficient to permit the identification and location of the record by the agency without an unreasonable amount of effort, the requester shall be contacted and asked to supplement the request with the necessary information. 1 DCMR § 402.5. When the Freedom of Information Officer, pursuant to § 402.5, contacts the requester for additional information, the request is deemed received when the Freedom of Information Officer receives the additional information. 1 DCMR § 405.6.

Here, despite the clarification provided, OANC has asserted that your request still does not reasonably describe the records sought. This Office agrees with OANC, in part. Specifically, subparts B, C and I of your clarified request fail to specify an author, recipient or custodian of the record sought and instead rely on overly broad phrases like “any” and “all.” With respect to these subparts, the request has not been perfected, for the purposes of tolling a duty to respond, until additional clarification is provided, as requested by OANC.

With respect to subparts A,D,E and H, they are distinguished in that they do provide sufficient detail to perform a search, e.g. subpart A asks for any correspondence to or from Ursula Higgins containing specific search terms; subpart D asks for documents from Commissioners Carley, Amin and Higgins covering certain topics over a set period of time; subpart E is requesting the contact lists as contained in ANC funded mobile phones; and subpart H requests certain reports from service provider Webex.

Finally, it is noted that “[a]n agency’s search conducted in response to a FOIA request ‘need

not be perfect, only adequate, and adequacy is measured by the reasonableness of the effort in light of the specific request.” *Fraternal Order of Police, Metro. Police Labor Comm. v. District of Columbia (FOP Peaceoholics)*, 79 A.3d 347, 360 (D.C.2013) (quoting *Meeropol v. Meese*, 790 F.2d 942, 956 (D.C.Cir.1986)).

### Conclusion

Based on the foregoing, we remand this matter to OANC to conduct a search for responsive documents with respect to the aforementioned subparts that were deemed to provide sufficient detail and to disclose to you any nonexempt responsive records. OANC’s request for clarification is affirmed on the remaining subparts B,C, and I, and the request is not tolled until additional clarification, is received. This constitutes the final decision of this Office; however, you may challenge any subsequent response by 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.

Respectfully,

Mayor’s Office of Legal Counsel

cc: Kathy Williams, OANC Special Assistant to the Executive Director (via email)