

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
EXECUTIVE OFFICE OF THE MAYOR  
MAYOR'S OFFICE OF LEGAL COUNSEL  
Freedom of Information Act Appeal: 2022-066**

January 18, 2023

**VIA ELECTRONIC MAIL ONLY**

Ms. Catherine Park

RE: FOIA Appeal 2022-066

Dear Ms. Park:

This letter responds to the administrative appeal that you have submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Code § 2-537 (“DC FOIA”). In your appeal, you have challenged the response of the Department of Housing and Community Development (“DHCD”) to your DC FOIA request.

On November 19, 2021, you submitted a DC FOIA request to the Rental Conversion and Sale Division (“the Division”) of DHCD on behalf of your client, The 4010 Georgia Ave NW Condominium Unit Owners Association (“the Association”), which sought the following:

Emails or other communications between DHCD and the Condominium Declarant (4010 Georgia Ave NW, LLC) regarding Condominium Association's (4010 Georgia Ave NW Condo. Unit Owners Association's) Structural Defect Warranty Claim. (Date Range for Record Search: From 11/25/2019 To 08/06/2020)

On January 14, 2022, DHCD responded to your request by providing responsive records that had been redacted because,

...portions of the information contained therein are subject to the trade secrets and commercial or financial exemption D.C. Code §2-534(a)(1), the personal privacy exemption D.C. Code §2-534(a)(2), and the deliberative process exemption D.C. Code §2- 534(a)(4).

On January 14, 2022, you filed an appeal with Office requesting an *in camera* review of the documents withheld pursuant to D.C. Code §2-534(a)(1) to determine “whether any ‘trade secrets’ or ‘commercial or financial information’ that would cause ‘substantial harm to the competitive position’ of the condominium developer upon disclosure are indeed implicated.” You noted that DHCD does not need to produce any documents, such as the engineer’ structural deficiency report, that are already in the possession of the Association.

On January 23, 2022, we notified DHCD of your appeal and requested a response, which DHCD provided on January 31, 2022. In its response, DHCD explained that the pages

redacted in full contain the Letter of Credit documents that list the Association as a signatory and the engineer's report commissioned by the Association. As such, "these documents would have already been in possession of the Association."

Because it appears that you already have the records that are the subject of this appeal, and have instructed that they do not need to be produced, we consider this appeal moot and dismiss the same.

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: Tonya Condell, DHCD FOIA Officer (via email only)