

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2022-101**

June 29, 2022

VIA ELECTRONIC MAIL

Ms. Amy Elizabeth Konigsburg

RE: FOIA Appeal 2022-101

Dear Ms. Konigsburg:

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 Executive Office of the Mayor (“EOM”) failed to respond to your DC FOIA request for public records.

On August 3, 2021, you submitted a DC FOIA request seeking “all records for [Ivy City] in respect to Lewis Crowe Park at West Virginia and Mt. Olivet and Capitol Ave. NE.” On March 15, 2022, because EOM did not respond to your request, you filed an appeal with this Office reading as follows:

The Mayor really needs to respond. This is public information we are requesting to understand what services and response our community is receiving. Ivy City is not adequately cared for, hence this request for information so we can establish a baseline and comparison to communities in more affluent areas of the city. The mayor's team owes Ivy City information on the open air drug markets being allowed to thrive. It is very disappointing to be ignored and told your safety doesn't matter when request for information from the public is not acknowledged.

On March 24, 2022, we notified EOM of your appeal and requested a response. EOM responded on March 31, 2022. In its response, EOM explained that the agency “has received an unprecedented number of FOIA requests which has caused a delay in processing this request... and will continue processing [your request] as promptly as possible.” EOM also requested “an extension to continue to process the request.”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 EOM has constructively denied your request. Therefore, we remand this matter to EOM and direct

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

it to promptly conduct a search for responsive records and disclose to you any non-exempt portions of responsive records.

This constitutes the final decision of this Office. However, you are free to challenge any substantive response you receive from EOM 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

cc: Tenette Smith, Associate General Counsel
EOM (via email)