

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
EXECUTIVE OFFICE OF THE MAYOR  
MAYOR'S OFFICE OF LEGAL COUNSEL  
Freedom of Information Act Appeal: 2022-193**

September 14, 2022

VIA ELECTRONIC MAIL

Mr. Donald Lee Crowell

RE: FOIA Appeal 2022-193

Dear Mr. Crowell:

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”) constructively denied your DC FOIA request for public records.

On June 29, 2022, you submitted a DC FOIA request to EOM seeking “[a]ll email, attachments to emails, reports, studies, communications, graphics, analyses, electronic communications, correspondence files, calendar files, records of meetings, text messages, other direct/instant electronic communications, talking points, background materials, notes, and memoranda related to any bicycle lane project on Arizona Ave NW” for the January 1, 2020 to June 30, 2022 time period. On July 13, 2022, EOM asked you to “verify what records you are seeking from EOM” and to “specify the specific individuals or groups who are the target of your search.” The same day, you provided the requested clarification.

On July 27, 2022, you filed an appeal with this Office asserting that EOM constructively denied your request because EOM did not provide a response by the July 21, 2022 due date. You requested that “EOM comply with its search/production obligations as required by DC FOIA and provide [a] complete response to [your] request by no later than August 15, 2022.” You copied EOM on your appeal filing and EOM provided a response to this Office on August 4, 2022.<sup>1</sup> In its response, EOM stated that it applied a 10-day extension on July 29, 2022 which extended the deadline for EOM to respond to your FOIA request to August 17, 2022. And therefore, EOM requested that we deny your appeal as unripe.

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

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<sup>1</sup> 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)