

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR**



Mayor's Office of Legal Counsel

October 10, 2017

VIA ELECTRONIC MAIL

Ms. Natasha Rodriguez

RE: FOIA Appeal 2017-162

Dear Ms. Rodriguez:

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”). Your appeal is based on the failure of the Department of Energy & Environment (“DOEE”) to respond to a FOIA request you submitted for DOEE certain emails.

Upon receipt of your appeal, this Office contacted the DOEE and asked the agency to explain its failure to respond to your request. On October 2, 2017, the DOEE requested an extension to respond to the appeal.¹ The DOEE also stated that its failure to timely respond to your FOIA request was an oversight, and it intended to release responsive records to the fullest extent possible after responsive emails were returned from the Office of the Chief Technology Officer.

The DOEE has failed to provide you with records within the 15 business days prescribed by D.C. Official Code § 2-532(c)(1) and has not asserted that the records are exempt from production under DC FOIA. As a result, this Office finds that the DOEE has constructively denied your request pursuant to D.C. Official Code § 2-532(e) and is improperly withholding the records at issue.

In light of the above, we remand this matter to the DOEE. The DOEE shall provide you with all responsive documents, subject to applicable FOIA exemptions, within 10 business days of the date of this decision. You may assert any challenge, by separate appeal, to the substantive response that the DOEE sends you.

¹ This Office granted the requested 5-day extension; however, the DOEE has not responded further to us.

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 the DC FOIA.

Respectfully,

Mayor's Office of Legal Counsel

cc: Norah Hazelton, Program Support Assistant, DOEE (via email)