

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2017-54**

April 27, 2017

VIA ELECTRONIC MAIL

Mr. Kahlill Palmer

RE: FOIA Appeal 2017-54

Dear Mr. Palmer:

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"), alleging that the Department of Consumer and Regulatory Affairs ("DCRA") improperly responded to a request you submitted to DCRA.

You submitted a FOIA request to DCRA on July 18, 2016, for a wide range of data involving property inspections, violations, and certificates of occupancy.

On August 25, 2016, DCRA denied your request, stating that "no such list exists that contains the requested documentation" and that DCRA was not required to create records. DCRA described the information it does maintain, invited you to file a new request, and referred you to the Office of the Chief Technology Officer for information on data migrations and system updates.

On April 11, 2017, you appealed DCRA's denial. In support of your appeal you argue that you have a sufficient basis to believe that DCRA maintains the information you requested. You attached to your appeal correspondence illustrating your post-denial efforts to work with DCRA's Office of Information Systems to acquire the data that you requested, which DCRA's initially claimed it did not possess. Your appeal also notes that regardless of your good faith efforts to work with various DCRA employees, DCRA is still obligated to follow DC FOIA.

This Office notified DCRA of your appeal and asked the agency to respond. DCRA did not provide a formal response to this Office, nor did it seek an extension pursuant to 1 DCMR § 412.6. In the interest of expediency, this Office contacted DCRA's Office of Information Systems and was advised that some of the records you requested do in fact exist, in an excel format, and that DCRA has had difficulty transferring the file due to the size of the file. A follow-up telephone conversation with DCRA's Office of General Counsel confirmed that responsive documents do exist and that DCRA will be sending them to you today.

DCRA originally denied your request on the grounds that "no such list exists that contains the requested documentation." DCRA has since revised its position, and has represented to this

Office: (1) that responsive documents exist; and (2) that DCRA will provide the responsive documents to you today.

Based on DCRA's representation to this Office that DCRA will provide you documents by the close of business on the date of this decision, we dismiss your appeal as moot; provided that the dismissal shall be without prejudice to you to assert any challenge, by separate appeal, to DCRA's substantive response¹.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action in the Superior Court of the District of Columbia in accordance with the DC FOIA.

Respectfully,

Mayor's Office of Legal Counsel

cc: Charles Thomas, General Counsel, DCRA (via email)

¹ We note that while DCRA has indicated that it will provide you with responsive documents, we are unsure as to the nature or scope of the production, such that if you believe that DCRA does not adequately respond, you may file a separate appeal challenging DCRA's production.