

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
EXECUTIVE OFFICE OF THE MAYOR  
MAYOR'S OFFICE OF LEGAL COUNSEL  
Freedom of Information Act Appeal: 2017-76**

May 30, 2017

VIA ELECTRONIC MAIL

Mr. David Ducatman

RE: FOIA Appeal 2017-76

Dear Mr. Ducatman:

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 Housing and Community Development ("DHCD") to respond to an April 26, 2017, request you submitted to DHCD on behalf of Stewart Title Group, LLC for records relating to the 1980 Rental Housing Conversion and Sale Act.

The record before us indicates that DHCD has not acknowledged receipt of your request or updated you on its status. As a result, you filed the instant appeal on the grounds that DHCD's failure to respond is a constructive denial under D.C. Official Code § 2-532(e).

Upon receiving your appeal on May 17, 2017, this Office notified DHCD and requested that it provide us with a response. DHCD did not respond to this Office by the May 24, 2017 deadline or seek an extension to respond pursuant to 1 DCMR § 412. In the interest of a complete record, this Office contacted DHCD again on May 25, 2017, but has still not received an agency response as of the writing of this decision.

DHCD has failed to provide you with records within the 15 business days prescribed by D.C. Official Code § 2-532 (c)(1). Further, based on the record before this Office, it appears that DHCD did not seek an extension to respond to your request by "written notice . . . setting forth the reasons for extension and expected date for determination," as contemplated by D.C. Official Code § 2-532(d)(1). Lastly, DHCD did not assert an exemption to justify withholding records at any point. As a result, this Office finds that DHCD constructively denied your request. D.C. Official Code § 2-532(e). Having denied your request, and having failed to offer an explanation to this Office for the reasons for such denial, this Office finds DHCD to be improperly withholding the records at issue.

In light of the above, this Office orders DHCD to, within 5 business days of the date of this decision: (1) identify all record repositories likely to contain responsive records; (2) search those repositories for responsive records; and (3) provide you with any responsive documents in DHCD's possession, subject to redaction or withholding in accordance with D.C. Official Code § 2-534. You may challenge DHCD's subsequent response by separate appeal.

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: Timothy Wilson, FOIA Officer, DHCD (via email)  
Julia Wiley, General Counsel, DHCD (via email)