

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



Mayor's Office of Legal Counsel

November 17, 2017

VIA ELECTRONIC MAIL

Mr. Shuntay Brown

RE: FOIA Appeal 2018-32

Dear Mr. Brown:

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"). This appeal involves a request you submitted to the District of Columbia Water and Sewer Authority ("DC Water") regarding lead testing of water.

Background

On Saturday, November 11, 2017, you submitted a FOIA request via FOIAXpress to this Office asking for the date that a property was order to perform a lead test of its water. On the same day, you sent a series of emails to this Office and DC Water's FOIA officer, among others, seeking the same information. One of the emails referenced a prior FOIA request you submitted to DC Water. On Monday, November 13, 2017, when we received your submissions, this Office contacted you for clarification as to whether you were attempting to appeal a FOIA decision issued by DC Water or submit a new FOIA request to DC Water. You responded that you were creating a new appeal.

Based on your representation, this Office notified DC Water of your appeal on November 13, 2017. DC Water called this Office on the same day asserting that your submission was actually a new request rather than an appeal. After reviewing your submissions, we find that current submission requests the date that lead water testing was ordered, whereas the prior request asked for information regarding lead pipe replacement. These two requests ask for distinct information. As a result, we agree with DC Water's assertion that your submission is a new request with no basis yet for appeal.

In light of the foregoing, this Office dismisses your appeal as moot. This dismissal shall be without prejudice to you to file a separate appeal if DC Water improperly responds or fails to respond to your request after the statutory deadline.

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: Victoria Fleming, FOIA Officer, DC Water (via email)