January 30, 2007

BY U. S. MAIL and FACSIMILE (540)

Blacksburg, Virginia 24060

Re: Freedom of Information Act ("FOIA") Appeals

Dear [Redacted]

This letter acknowledges receipt of your letter dated January 9, 2007 and received in this office on January 19, 2007. In your letter, you reference a determination by the former General Counsel to the Mayor, dated March 22, 2006 (the "2006 Determination") issued in response to your FOIA Appeal dated February 17, 2006 and received on March 8, 2006 (the "2006 FOIA Appeal"). Your letter apparently asks us to now revisit the 2006 Determination and the 2006 FOIA Appeal. We respectfully decline to do so for the reasons set forth below.

The record reflects that the 2006 Determination upheld the District of Columbia Department of Health ("DOH").'s denials of certain requests and directed production of others. See 2006 Determination, pp. 6, 7, 8 and 9. The record further reflects that by letter dated May 31, 2006, the former General Counsel to the Mayor contacted DOH to confirm that DOH had not complied with the 2006 Determination by the deadline established therein; and to request that internal administrative measures be taken to provide you, [Redacted], the materials ordered to be produced. The record reflects a dispute as to whether or not this was done.

The authority of this office to act is found in the District of Columbia Freedom of Information Act (the "FOIA"), D.C. Official Code § 2-531 et seq. (2001 & 2006 Supp.) and D.C. Mun. Regs., Title 1, § 400 et seq. Neither the D.C. Code nor the D.C. Municipal Regulations authorize this office to revisit a prior determination of a FOIA Appeal, or to review further an alleged failure by an agency to comply with such a determination. Instead, DCMR § 412.8
authorizes our office, on behalf of the Office of the Secretary, to order an agency to produce records found to have been improperly withheld. If the agency continues to withhold the records, the requestor may seek enforcement of the order in D.C. Superior Court.

Accordingly, you are advised that pursuant to DCMR § 412.8, you may seek enforcement of the 2006 Determination in the D.C. Superior Court. No further action will be taken by this office with respect to the 2006 FOIA Appeal or underlying FOIA request.

Sincerely,

Andrew T. "Chip" Richardson, III
Deputy General Counsel, EOM

cc: Gregg A. Pane, MD, MPA, FACPE
    Director of Department of Health

cc: Thomas Collier, Esq.
    DOH, FOIA Officer