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**OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF DELAWARE**

**Attorney General Opinion 17-IB18**

**July 11, 2017**

**VIA EMAIL**

Greg Wood  
[gewood45@comcast.net](mailto:gewood45@comcast.net)

**RE: June 16, 2017 FOIA Correspondence Regarding the Delaware Department of Insurance**

Dear Mr. Wood:

I write in response to your correspondence, received on June 16, 2017,<sup>1</sup> alleging that the Delaware Department of Insurance (“DOI”) violated the public records provisions of Delaware’s Freedom of Information Act, 29 *Del. C.* §§ 10001-10007 (“FOIA”). Specifically, you allege that DOI violated FOIA by failing to provide a timely response to your May 5, 2017 request for records.<sup>2</sup> The DOI provided a response to the request on June 14, 2017, one day after your initial correspondence with this Office.<sup>3</sup> The DOI has indicated that it has no record of having received your request via United States Mail, but has acknowledged that it did in fact receive your request via email.<sup>4</sup> Based upon the record, it is my determination that the DOI violated FOIA by failing

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<sup>1</sup> We note that your initial correspondence with this office was dated June 13, 2017 and supplemented per our request on June 16, 2017. As the supplemental information was critical to our evaluation of your FOIA allegation, we deem your petition to have been received in its entirety on June 16, 2017.

<sup>2</sup> You stated that you submitted your request via email and United States Mail.

<sup>3</sup> Response Letter at 2. The record demonstrates that you forwarded a copy of your May 5, 2017 request to DOI via email on June 12, 2017 per DOI’s request.

<sup>4</sup> DOI asserts that the email was inadvertently deleted and was retrieved with the assistance of the Delaware Department of Technology and Information. *Id.* at 1.

to provide a response to your request within 15 business days of its receipt thereof on May 5, 2017.<sup>5</sup> As the DOI has since provided a response to your request and has indicated that it “will be instituting new internal procedures for handling FOIA requests submitted to the [DOI]’s legal mailbox,”<sup>6</sup> additional remediation is not necessary at this time.<sup>7</sup> To the extent you believe additional relief to be warranted for this FOIA violation, you are free to seek redress from the courts.<sup>8</sup>

Very truly yours,



LaKresha S. Roberts  
Chief Deputy Attorney General

cc: Aaron R. Goldstein, State Solicitor (via email)  
Michelle E. Whalen, Deputy Attorney General (via email)  
Kathleen Makowski, Deputy Attorney General (via email)

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<sup>5</sup> See 29 Del. C. § 10003(h)(1) (“The public body shall respond to a FOIA request as soon as possible, but in any event within 15 business days of receipt thereof. . . .”).

<sup>6</sup> Response Letter at 2.

<sup>7</sup> As your petition was limited to the question of whether DOI violated FOIA by failing to provide a timely response to your May 5, 2017 request, this determination does not address whether the DOI’s response to the request violated FOIA.

<sup>8</sup> See Del. Op. Att’y Gen. 16-IB23, 2016 WL 7010495, at \*2 (Oct. 28, 2016) (“[T]his Office is not vested with the authority to impose punitive measures for FOIA violations. You are free to seek redress in the courts if you believe that additional relief is warranted.”) (citation omitted).