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OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF DELAWARE

Attorney General Opinion No. 18-IB01

January 2, 2018

VIA U.S. MAIL & EMAIL

La Mar Gunn, Sr.
President
Central Delaware NAACP
11 North State Street
Dover, DE 19901
lamargunn@me.com

RE: FOIA Petition Regarding the Delaware Department of Insurance

Dear Mr. Gunn:

I write regarding your correspondence, received December 29, 2017, wherein you allege that the Delaware Department of Insurance ("DOI") violated the Delaware Freedom of Information Act, 29 *Del. C.* §§ 10001-10007 ("FOIA"). I treat your correspondence as a petition for a determination pursuant to 29 *Del. C.* §10005 regarding whether a violation of FOIA has occurred or is about to occur ("Petition"). For the reasons set forth below, it is my determination that DOI did not violate FOIA as alleged.


On December 29, 2017, you hand-delivered a FOIA request to DOI for a copy of DOI's employee manual and requested immediate access thereto. You state that a DOI representative, Ms. Leslie Ledogar, "gave the excuse that she was unsure as to where she could locate the employee manual and that her office had 15 days to respond to the subject request." You rely on 29 *Del. C.* § 10003(1), which states "[t]he public body shall provide reasonable access for reviewing public records during regular business hours," for the proposition that DOI violated FOIA by failing to provide you immediate in-person access to the requested record.

FOIA requires a public body to "respond to a FOIA request as soon as possible, but in any event within 15 business days after the receipt thereof, either by providing access to the requested records, denying access to the records or parts of them, or by advising that additional time is needed because the request is for voluminous records, requires legal advice, or a record is in storage or

archived.”¹ FOIA also requires “*reasonable* access for reviewing public records during regular business hours.”² FOIA does not require a public body to provide immediate in-person access to records.

Here, the record demonstrates that DOI has already offered to make the requested record available to you, for an in person review, just one business day after your request. On this record, I am satisfied that DOI has complied with Sections 10003(h)(1) and (l). As such, it is my determination that DOI did not violate FOIA as alleged.

Very truly yours,


LaKresha S. Roberts
Chief Deputy Attorney General

cc: Michelle E. Whalen, Deputy Attorney General
Kathleen P. Makowski, Deputy Attorney General

¹ 29 Del. C. § 10003(h)(1).

² 29 Del. C. § 10003(l) (emphasis added).