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Office of the Attorney General of the State of Delaware

Attorney General Opinion No. 26-IB44

August 4, 2026

Via Email

Ken Grant
ken.grant7@gmail.com

Re: FOIA Petition Regarding the City of Wilmington

Dear Mr. Grant:

We write in response to your correspondence alleging that the City of Wilmington violated Delaware's Freedom of Information Act, 29 *Del. C.* §§ 10001-10008 ("FOIA"). We treat this correspondence as a Petition for a determination pursuant to 29 *Del. C.* § 10005 of whether a violation of FOIA has occurred or is about to occur. As discussed more fully herein, we determine that the City violated FOIA by failing to respond to this request within the requisite timeframe.

Background

On June 4, 2026, you submitted a FOIA request to the City seeking certain contractual records related to parking enforcement and parking-related collections in effect between calendar years 2023 to 2026.¹ You state that the City acknowledged receipt of this request, which was assigned reference number R001147-060426, but did not reply. This Petition followed, alleging that the City violated FOIA by failing to respond to this request within the statutory timeframe provided in Section 10003. The City was asked to respond to this Petition but did not do so.

¹ Petition.

Discussion

Delaware's FOIA law "was enacted to ensure governmental accountability by providing Delaware's citizens access to open meetings and meeting records of governmental or public bodies, as well as access to the public records of those entities."² FOIA requires that citizens be provided reasonable access to and reasonable facilities for the copying of public records.³ The public body has the burden of proof to justify its denial of access to records.⁴ In certain circumstances, a sworn affidavit may be required to meet that burden.⁵

A public body is required to "respond to a FOIA request as soon as possible, but in any event within 15 business days after the receipt thereof."⁶ Section 10003(h)(1) permits a public body to inform a requestor that a response will take more than the requisite fifteen days if the request is for voluminous records, requires legal advice, or a record is in storage or archived.⁷ The public body must inform the requesting party of the authorized reason for the extension and give a good faith estimate of how much additional time is needed to fulfill the request.⁸ If allowable processing fees are expected to be incurred, the public body must provide a cost estimate to the requesting party in advance, and the requesting party may then decide to proceed with, cancel, or modify the request.⁹

In this case, the City did not respond with evidence of its compliance with Section 10003 and therefore did not meet its burden of proof. As such, we must find a violation of FOIA and recommend that the City responds to your request in accordance with Section 10003, as stated above.

Conclusion

For the reasons set forth above, we conclude that the City violated FOIA by failing to respond to this request within the requisite timeframe.

² *Judicial Watch, Inc. v. Univ. of Del.*, 267 A.3d 996, 1004 (Del. 2021).

³ 29 Del. C. § 10003(a).

⁴ 29 Del. C. § 10005(c).

⁵ *See Judicial Watch, Inc.*, 267 A.3d at 1008-1012.

⁶ 29 Del. C. § 10003(h)(1).

⁷ *Id.*

⁸ *Id.*

⁹ 29 Del. C. § 10003.

Very truly yours,

/s/ Dorey L. Cole

Dorey L. Cole
Deputy Attorney General

Approved:

/s/ Patricia A. Davis

Patricia A. Davis
State Solicitor

cc: John D. Hawley, Assistant City Solicitor