

EXHIBIT 10

DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT

Re: Appeal of Certificate of Occupancy Nos. 1001838 and 1002471 issued to Stadium Group LLC for 2127 Queens Chapel Road NE.

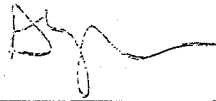
BZA Appeal No. 18114

DECLARATION OF ABIGAIL PADOU

1. I, Abigail Padou, am a resident of Washington DC who owns and resides at 1335 Lawrence St NE. I am over 21 years of age.
2. On August 2, 2010 I sent a FOIA request to DCRA FOIA Officer Hamilton Kuralt requesting certain public records, including correspondence of Zoning Administrator Matthew LeGrant with the Alcoholic Beverage Regulation Administration (ABRA) and the Alcoholic Beverage Control Board (ABC Board) and regarding 2127 Queens Chapel Road NE.
3. On August 18, 2010, DCRA employee Jonathan Williams sent an email that DCRA was "invoking [its] 10 business day statutory extension," for responding to the FOIA Request, which extended the response deadline to September 7, 2010.
4. By September 7, 2010, I had not received a response to my FOIA Request from DCRA.
5. On September 7, 2010, I emailed a reminder to Hamilton Kuralt that the FOIA Request was due that day.
6. On September 7, 2010, Mr. Kuralt replied by email that he was working on the response to my FOIA Request, but was unable to provide any documents due to delays with OCTO.
7. On September 14, 2010, I emailed another reminder to Hamilton Kuralt that the FOIA Request was past due.
8. On September 14, 2010, Mr. Kuralt replied by email that he was still working on the response to my FOIA Request, but was still unable to provide responsive documents because of OCTO.
9. On September 21, 2010 I filed a FOIA Appeal with the Mayor because DCRA still had not provided any responsive documents.
10. On October 1, 2010, Runako Allsopp, Deputy General Counsel to the Mayor, ordered Hamilton Kuralt to produce the requested documents within five days.
11. Hamilton Kuralt did not produce the requested documents within five days.
12. On October 8, 2010 Hamilton Kuralt emailed a partial response to my FOIA Request, omitting all correspondence between Matthew LeGrant and ABRA and the ABC Board.
13. Mr. Kuralt said he was unable to provide correspondence between Matthew LeGrant and ABRA and the ABC Board because my FOIA Request did not "reasonably describe" the records I was seeking.

14. Prior to October 8, 2010 Mr. Kuralt never contacted me or indicated in any way that my FOIA Request did not "reasonably describe" the records I was seeking.

I declare, under penalty of perjury, that the foregoing is true to the best of my knowledge and belief.



Abigail Padou
1335 Lawrence St NE
Washington DC 20017
(202) 832-4038

10/14/10

date



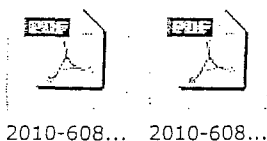
Freedom of Information Act Request Number 2010-608

Friday, October 8, 2010 2:40 PM

From: "Kuralt, Hamilton (DCRA)" <hamilton.kuralt@dc.gov>

To: "brooklandheartbeat@yahoo.com" <brooklandheartbeat@yahoo.com>

2 Files (1500KB)



Ms. Padou,

This email responds to your Freedom of Information Act (FOIA) request, received August 2, 2010 and assigned FOIA number 2010-608, in which you requested the following documents:

"...all correspondence (including, but not limited to, letters, emails, and attachments) between:

1. Matt LeGrant and representatives of the Stadium Group, LLC (including Stephen O'Brien, Michael Fonseca, Keith Forney, James Truitt Redding, and Damien Ward);
2. Matt LeGrant and employees of ABRA;
3. Matt LeGrant and members of the ABC Board; and
4. Matt LeGrant and employees of DCRA on the subject of the Stadium Group LLC or 2127 Queens Chapel Road NE "

You requested these documents for the period of March 1, 2010 through July 31, 2010.

Regarding your request for correspondence between Matthew LeGrant and "employees of ABRA" and between Matthew LeGrant and "members of the ABC Board", 1 DCMR 402.4 provides that requests for records must be "reasonably described" such as to enable the agency to identify the records sought. The terms "employees of ABRA", an agency with hundreds of employees with whom Mr. LeGrant may communicate any number of times on any number of issues, and "members of the ABC board", with whom Mr. LeGrant may communicate with equal frequency on any number of occasions regarding any number of issues, are insufficiently specific to enable me to identify the documents sought. Accordingly, pursuant to 1 DCMR 402.5, I am requesting that you revise this element of your request for greater specificity so as to enable me to assist you.

Regarding your requests for correspondence numbered 1 and 4 above, a search was conducted of DCRA and OCTO records for letters, and for electronic mail records using the following search terms:

- "Stadium Group";
- "2127 Queens Chapel Road";
- "Stadium Group LLC";

- "Stephen O'Brien";
- "Michael Fonseca";
- "Keith Forney";
- "James Truitt Redding"; and
- "Damien Ward"

Please find attached to this email PDF copies of the documents identified as responsive to your request in the possession and control of DCRA and OCTO. These documents are being provided in full without any redaction. There are no fees associated with this request. I have identified other responsive documents but have found them to be covered by the Attorney-Client Privilege and therefore properly excluded from production under D.C. Official Code § 2-534(a)(4) ("Inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency").

Please know that, under D.C. Official Code § 2-537 and 1 DCMR 412, you have the right to appeal this letter to the Mayor or to the Superior Court of the District of Columbia. If you elect to appeal to the Mayor, your appeal must be in writing and contain "Freedom of Information Act Appeal" or "FOIA Appeal" in the subject line of the letter as well on the outside of the envelope. The appeal must include (1) a copy of the original request; (2) a copy of any written denial; (3) a statement of the circumstances, reasons, and/or arguments advanced in support of disclosure; and (4) a daytime telephone number, and e-mail and/or U.S. Mail address at which you can be reached. The appeal must be mailed to: The Mayor's Correspondence Unit, FOIA Appeal, 1350 Pennsylvania Avenue, N.W., Suite 316, Washington, D.C. 20004. Electronic versions of the same information can instead be e-mailed to The Mayor's Correspondence Unit at foia.mayor@dc.gov. Further, a copy of all appeal materials must be forward to the Freedom of Information Officer of the involved agency, or to the agency head of that agency if there is no designated Freedom of Information Officer there. Failure to follow these administrative steps will result in delay in the processing and commencement of a response to your appeal to the Mayor.

If you have any questions, please don't hesitate to contact me.

Hamilton Kuralt
Service Integrity & FOIA Officer
DCRA, Office of Service Integrity
1100 4th Street, SW
Room #5186
Washington, DC 20024
(202) 442-8930 (p)
(202) 442-9445 (f)
hamilton.kuralt@dc.gov

Abigail and Don Padou
1335 Lawrence Street NE
Washington, DC 20017
(202) 832-4038

September 21, 2010

Mayor's Correspondence Unit
FOIA Appeal
1350 Pennsylvania Ave, NW, Suite 221
Washington, DC 20004

Chip Richardson
Office of the General Counsel
1350 Pennsylvania Ave NW, Suite 327
Washington DC 20004

Re: FOIA Appeal

A hard copy of this appeal, with associated documents, was mailed to the Mayor's Correspondence Unit.

Dear Mayor Fenty:

We are writing to appeal DCRA's decision not to respond to our FOIA request.

On August 2, 2010 we sent a FOIA request to DCRA FOIA Officer Hamilton Kuralt seeking copies of certain public records. The statutory 15 business day period for DCRA to respond was August 23, 2010. On August 18, 2010, DCRA employee Jonathan Williams sent an email that DCRA was "invoking [its] 10 business day statutory extension," which would extend the deadline to September 7, 2010.

As of the date of this appeal DCRA has failed to produce any records responsive to this FOIA request nor has DCRA provided a letter of denial. On September 7 and September 14, 2010, email reminders were sent to DCRA FOIA Officer Hamilton Kuralt. Mr. Kuralt replied that he was powerless to comply with the request (See September 14, 2010 email from Hamilton Kuralt to Abigail Padou: "[U]nfortunately I don't have any control over OCTO"). This is not an acceptable reason for noncompliance with FOIA.

Pursuant to DC Code § 2-532(e), DCRA's failure to respond to our request is a denial of our request which we are appealing to the Mayor's office pursuant to DC Code § 2-537.

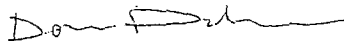
We urge your office to direct DCRA to comply with this FOIA request without further delay. The request was for a small number of clearly identifiable records generated over a recent four month period. There is nothing in the request that could be considered exempt from disclosure pursuant to DC Code § 2-534.

Copies of the relevant correspondence with DCRA are attached. Please do not hesitate to get in touch if you need further information.

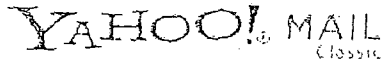
Sincerely,



Abigail Padou



Don Padou



FOIA Request

Monday, August 2, 2010 4:17 PM

From: "Brookland Heartbeat" <brooklandheartbeat@yahoo.com>

To: hamilton.kuralt@dc.gov, jonathan.williams@dc.gov

Dear Mr. Kuralt:

This is a FOIA request for all correspondence (including, but not limited to, letters, emails and attachments) between:

1. Matthew LeGrant and representatives of the Stadium Group LLC (including Stephen O'Brien, Michael Fonseca, Keith Forney, James Truitt Redding, and Damien Ward).
2. Matthew LeGrant and employees of ABRA.
3. Matthew LeGrant and members of the ABC Board.
4. Matthew LeGrant and employees of DCRA on the subject of the Stadium Group LLC or 2127 Queens Chapel Road NE.

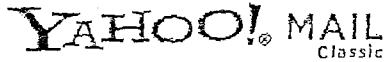
Please apply this FOIA request to the period March 1, 2010 through July 31, 2010 .

If you have any questions please do not hesitate to give me a call at (202) 832-4038.

According to the FOIA law of the District of Columbia , DCRA has 15 business days to respond to this request, excluding weekends and holidays. The deadline is August 23, 2010 . I am the editor of Brookland Heartbeat, a bi-monthly newspaper distributed to the greater Brookland area. As such, I receive the media rate for FOIA requests from DC agencies.

Please send resulting documents by email or to my attention at 1335 Lawrence St NE , Washington DC 20017 .

Sincerely,
Abigail Padou
Editor



FOIA Request # 2010-608 (Email Request)

Wednesday, August 18, 2010 3:56 PM

From: "Williams, Jonathan (DCRA)" <jonathan.williams@dc.gov>

To: "Brookland Heartbeat" <brooklandheartbeat@yahoo.com>

Cc: "Kuralt, Hamilton (DCRA)" <hamilton.kuralt@dc.gov>, "Spriggs, Delonta (DCRA)" <delonta.spriggs@dc.gov>

Ms. Padou,

This email acknowledges the receipt of your request under the Freedom of Information Act (FOIA).

Please know that DCRA is diligently working to respond to your request. Pursuant to D.C. Official Code § 2-532(d) (2001), I am invoking our 10 business day statutory extension to our response deadline.

You will receive written notice advising you when our response to your request is complete and we will advise you of the cost for the search and the duplication of the materials at that time.

If you have any additional questions, please feel free to contact the Freedom of Information Officer Hamilton Kuralt on 202-478-9286

Sincerely,

Jonathan Williams
Program Support Specialist
Communications and Outreach
Department of Consumer and Regulatory Affairs
District of Columbia Government
1100 4th Street SW 20024
202-478-5745 (Desk)
202-442-8383 (Fax)
Jonathan.Williams@dc.gov



Re: FOIA Request # 2010-608 (Email Request)

Tuesday, September 7, 2010 3:25 PM

From: "Brookland Heartbeat" <brooklandheartbeat@yahoo.com>

To: "Jonathan (DCRA)Williams" <jonathan.williams@dc.gov>

Cc: "Hamilton (DCRA)Kuralt" <hamilton.kuralt@dc.gov>, "Delonta (DCRA)Spriggs" <delonta.spriggs@dc.gov>

Dear Mr. Kuralt

This is a reminder that DCRA's response to this FOIA request is due today.

Sincerely,
Abigail Padou

--- On Wed, 8/18/10, Williams, Jonathan (DCRA) <jonathan.williams@dc.gov> wrote:

From: Williams, Jonathan (DCRA) <jonathan.williams@dc.gov>
Subject: FOIA Request # 2010-608 (Email Request)
To: "Brookland Heartbeat" <brooklandheartbeat@yahoo.com>
Cc: "Kuralt, Hamilton (DCRA)" <hamilton.kuralt@dc.gov>, "Spriggs, Delonta (DCRA)" <delonta.spriggs@dc.gov>
Date: Wednesday, August 18, 2010, 3:56 PM

Ms. Padou,

This email acknowledges the receipt of your request under the Freedom of Information Act (FOIA).

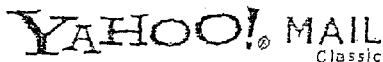
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Sincerely,

Jonathan Williams
Program Support Specialist
Communications and Outreach
Department of Consumer and Regulatory Affairs
District of Columbia Government
1100 4th Street SW 20024
202-478-5745 (Desk)
202-442-8383 (Fax)
Jonathan.Williams@dc.gov



RE: FOIA Request # 2010-608 (Email Request)

Tuesday, September 7, 2010 3:31 PM

From: "Kuralt, Hamilton (DCRA)" <hamilton.kuralt@dc.gov>

To: "Brookland Heartbeat" <brooklandheartbeat@yahoo.com>, "Williams, Jonathan (DCRA)" <jonathan.williams@dc.gov>

Cc: "Spriggs, Delonta (DCRA)" <delonta.spriggs@dc.gov>

Ms. Padou,

At this time I have not received a response to my request for the documentation from OCTO, who maintains all of our email traffic. I am doing everything I can to complete this response, however it may be a little longer before I am able to fulfill this request. My apologies for the inconvenience, I will continue working on this and will get you a response as soon as possible. I will provide you an update this week if it looks likely to go beyond the 10th.

Again, my apologies for delay.

Hamilton Kuralt
Service Integrity & FOIA Officer
DCRA, Office of Service Integrity
1100 4th Street, SW
Room #5186
Washington, DC 20024
(202) 442-8930 (p)
(202) 442-9445 (f)
hamilton.kuralt@dc.gov

From: Brookland Heartbeat [mailto:brooklandheartbeat@yahoo.com]
Sent: Tuesday, September 07, 2010 3:25 PM
To: Williams, Jonathan (DCRA)
Cc: Kuralt, Hamilton (DCRA); Spriggs, Delonta (DCRA)
Subject: Re: FOIA Request # 2010-608 (Email Request)

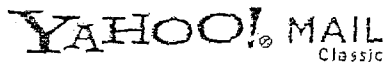
Dear Mr. Kuralt

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Sincerely,
Abigail Padou

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From: Williams, Jonathan (DCRA) <jonathan.williams@dc.gov>
Subject: FOIA Request # 2010-608 (Email Request)
To: "Brookland Heartbeat" <brooklandheartbeat@yahoo.com>
Cc: "Kuralt, Hamilton (DCRA)" <hamilton.kuralt@dc.gov>, "Spriggs, Delonta (DCRA)" <delonta.spriggs@dc.gov>



RE: FOIA Request # 2010-608 (Email Request)

Tuesday, September 7, 2010 3:51 PM

From: "Brookland Heartbeat" <brooklandheartbeat@yahoo.com>

To: "Hamilton (DCRA)Kuralt" <hamilton.kuralt@dc.gov>

Ok, thanks for the update

Abigail

--- On Tue, 9/7/10, Kuralt, Hamilton (DCRA) <hamilton.kuralt@dc.gov> wrote:

From: Kuralt, Hamilton (DCRA) <hamilton.kuralt@dc.gov>

Subject: RE: FOIA Request # 2010-608 (Email Request)

To: "Brookland Heartbeat" <brooklandheartbeat@yahoo.com>, "Williams, Jonathan (DCRA)" <jonathan.williams@dc.gov>

Cc: "Spriggs, Delonta (DCRA)" <delonta.spriggs@dc.gov>

Date: Tuesday, September 7, 2010, 3:31 PM

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At this time I have not received a response to my request for the documentation from OCTO, who maintains all of our email traffic. I am doing everything I can to complete this response, however it may be a little longer before I am able to fulfill this request. My apologies for the inconvenience, I will continue working on this and will get you a response as soon as possible. I will provide you an update this week if it looks likely to go beyond the 10th.

Again, my apologies for delay.

Hamilton Kuralt
Service Integrity & FOIA Officer
DCRA, Office of Service Integrity
1100 4th Street, SW
Room #5186
Washington, DC 20024
(202) 442-8930 (p)
(202) 442-9445 (f)
hamilton.kuralt@dc.gov

From: Brookland Heartbeat [mailto:brooklandheartbeat@yahoo.com]

Sent: Tuesday, September 07, 2010 3:25 PM

To: Williams, Jonathan (DCRA)

Cc: Kuralt, Hamilton (DCRA); Spriggs, Delonta (DCRA)

Subject: Re: FOIA Request # 2010-608 (Email Request)

Dear Mr. Kuralt

This is a reminder that DCRA's response to this FOIA request is due today.



RE: FOIA Request # 2010-608 (Email Request)

Tuesday, September 14, 2010 12:28 PM

From: "Brookland Heartbeat" <brooklandheartbeat@yahoo.com>

To: hamilton.kuralt@dc.gov

Dear Mr. Kuralt

Please provide DCRA's response to my FOIA request. It is past due.

Sincerely,
Abigail Padou

--- On Tue, 9/7/10, Kuralt, Hamilton (DCRA) <hamilton.kuralt@dc.gov> wrote:

From: Kuralt, Hamilton (DCRA) <hamilton.kuralt@dc.gov>
Subject: RE: FOIA Request # 2010-608 (Email Request)
To: "Brookland Heartbeat" <brooklandheartbeat@yahoo.com>, "Williams, Jonathan (DCRA)" <jonathan.williams@dc.gov>
Cc: "Spriggs, Delonta (DCRA)" <delonta.spriggs@dc.gov>
Date: Tuesday, September 7, 2010, 3:31 PM

Ms. Padou,

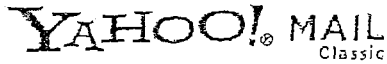
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Again, my apologies for delay.

Hamilton Kuralt
Service Integrity & FOIA Officer
DCRA, Office of Service Integrity
1100 4th Street, SW
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Washington, DC 20024
(202) 442-8930 (p)
(202) 442-9445 (f)
hamilton.kuralt@dc.gov

From: Brookland Heartbeat [mailto:brooklandheartbeat@yahoo.com]
Sent: Tuesday, September 07, 2010 3:25 PM
To: Williams, Jonathan (DCRA)
Cc: Kuralt, Hamilton (DCRA); Spriggs, Delonta (DCRA)
Subject: Re: FOIA Request # 2010-608 (Email Request)

Dear Mr. Kuralt



RE: FOIA Request # 2010-608 (Email Request)

Tuesday, September 14, 2010 2:15 PM

From: "Kuralt, Hamilton (DCRA)" <hamilton.kuralt@dc.gov>

To: "Brookland Heartbeat" <brooklandheartbeat@yahoo.com>

Ms. Padou,

Again, my apologies for the delay, but unfortunately I don't have any control over OCTO, other than just to keep contacting them. However, because of the lateness of this request, I will begin reaching out to them daily, copying the District's FOIA officer on each request. Hopefully that will encourage them to move on it.

Again, my apologies for the delays, but I can assure you I will do everything in my power to obtain the documents as soon as possible.

Hamilton Kuralt
Service Integrity & FOIA Officer
DCRA, Office of Service Integrity
1100 4th Street, SW
Room #5186
Washington, DC 20024
(202) 442-8930 (p)
(202) 442-9445 (f)
hamilton.kuralt@dc.gov

From: Brookland Heartbeat [mailto:brooklandheartbeat@yahoo.com]

Sent: Tuesday, September 14, 2010 12:29 PM

To: Kuralt, Hamilton (DCRA)

Subject: RE: FOIA Request # 2010-608 (Email Request)

Dear Mr. Kuralt

Please provide DCRA's response to my FOIA request. It is past due.

Sincerely,
Abigail Padou

--- On Tue, 9/7/10, Kuralt, Hamilton (DCRA) <hamilton.kuralt@dc.gov> wrote:

From: Kuralt, Hamilton (DCRA) <hamilton.kuralt@dc.gov>
Subject: RE: FOIA Request # 2010-608 (Email Request)
To: "Brookland Heartbeat" <brooklandheartbeat@yahoo.com>, "Williams, Jonathan (DCRA)" <jonathan.williams@dc.gov>
Cc: "Spriggs, Delonta (DCRA)" <delonta.spriggs@dc.gov>
Date: Tuesday, September 7, 2010, 3:31 PM

Ms. Padou,

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR

Office of the General Counsel to the Mayor

October 1, 2010

BY U.S. MAIL

Abigail and Don Padou
1335 Lawrence Street, NE
Washington, DC 20017

Re: Freedom of Information Act Appeal-63

Dear Mr. and Mrs. Padou:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code, 2001 Ed. § 2-531 *et seq.* (the "DC FOIA"), dated September 21, 2010 (the "Appeal"). We forwarded the Appeal to the District of Columbia Department of Consumer and Regulatory Affairs ("DCRA") with a request for a response. DCRA responded via e-mail on September 27, 2010 ("DCRA Response").

In your original FOIA Request dated August 2, 2010, you requested all correspondence between:

1. Matthew LaGrant and representatives of the Stadium Group, LLC (including Stephen O'Brien, Michael Fonesca, Keith Forney, James Truitt Redding and Damien Ward).
2. Matthew LeGrant and employees of ABRA.
3. Matthew LeGrant and members of the ABC Board
4. Matthew LeGrant and employees of DCRA on the subject of the Stadium Group LLC or 2127 Queens Chapel Road, NE.

On August 18, 2010, DCRA responded to your request, stating that it was "diligently working to respond to your request" and that it was invoking the 10 business day statutory extension in order to respond to the deadline. On September 7, 2010 and September 14, 2010, you e-mailed DCRA inquiring as to the status of your FOIA request. However, on both occasions, DCRA informed you that the processing of your request was delayed because the Office of the Chief Technology Officer (OCTO) was conducting an e-mail search and the search had been completed.

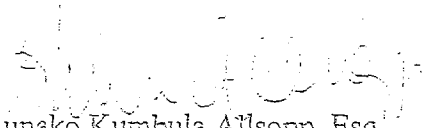
Discussion

It is the public policy of the District government that "all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees." D.C. Code § 2-531. In aid of that policy, the DC FOIA creates the right "to inspect ... and ... copy any public record of a public body" *Id.* at § 2-532(a). Yet that right is subject to various exemptions, which may form the basis for a denial of a request. *Id.* at § 2-534.

We interpret your appeal to mean you find DCRA's response to be a denial of your FOIA request. DCRA does not contest the validity of your FOIA appeal; the agency agrees that its response is past due. However, DCRA maintains that the delay in processing your FOIA request is caused by OCTO. DCRA states that it is in constant contact with OCTO regarding this request and that the agency expects to receive a response from DCRA "very soon." Nonetheless, DCRA is obligated to provide responsive records to your FOIA request in a timely manner, notwithstanding the delays caused by OCTO.

Therefore, we REMAND this matter to DCRA and order the agency to provide you with the requested records that are responsive to your request within FIVE days of the date of this decision. If you are dissatisfied with this decision, you are free under the DC FOIA to commence a civil action against the District of Columbia government in the District of Columbia Superior Court.

Regards,


Runako Kumbula Allsopp, Esq.
Deputy General Counsel to the Mayor

cc: Kuralt Hamilton, DCRA