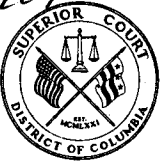


ReBrown 10:55 A.M.

6-7-14



**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

JAMES KANE

Vs.

C.A. No. 2014 CA 003386 B

DISTRICT OF COLUMBIA

INITIAL ORDER AND ADDENDUM

Pursuant to D.C. Code § 11-906 and District of Columbia Superior Court Rule of Civil Procedure ("SCR Civ") 40-I, it is hereby **ORDERED** as follows:

(1) Effective this date, this case has assigned to the individual calendar designated below. All future filings in this case shall bear the calendar number and the judge's name beneath the case number in the caption. On filing any motion or paper related thereto, one copy (for the judge) must be delivered to the Clerk along with the original.

(2) Within 60 days of the filing of the complaint, plaintiff must file proof of serving on each defendant: copies of the Summons, the Complaint, and this Initial Order. As to any defendant for whom such proof of service has not been filed, the Complaint will be dismissed without prejudice for want of prosecution unless the time for serving the defendant has been extended as provided in SCR Civ 4(m).

(3) Within 20 days of service as described above, except as otherwise noted in SCR Civ 12, each defendant must respond to the Complaint by filing an Answer or other responsive pleading. As to the defendant who has failed to respond, a default and judgment will be entered unless the time to respond has been extended as provided in SCR Civ 55(a).

(4) At the time and place noted below, all counsel and unrepresented parties shall appear before the assigned judge at an Initial Scheduling and Settlement Conference to discuss the possibilities of settlement and to establish a schedule for the completion of all proceedings, including, normally, either mediation, case evaluation, or arbitration. Counsel shall discuss with their clients **prior** to the conference whether the clients are agreeable to binding or non-binding arbitration. **This order is the only notice that parties and counsel will receive concerning this Conference.**

(5) Upon advice that the date noted below is inconvenient for any party or counsel, the Quality Review Branch (202) 879-1750 may continue the Conference **once**, with the consent of all parties, to either of the two succeeding Fridays. Request must be made not less than six business days before the scheduling conference date. No other continuance of the conference will be granted except upon motion for good cause shown.

(6) Parties are responsible for obtaining and complying with all requirements of the General Order for Civil cases, each Judge's Supplement to the General Order and the General Mediation Order. Copies of these orders are available in the Courtroom and on the Court's website <http://www.dccourts.gov/>.

Chief Judge Lee F. Satterfield

Case Assigned to: Judge JEANETTE J CLARK

Date: June 2, 2014

Initial Conference: 9:30 am, Friday, September 12, 2014

Location: Courtroom 517

500 Indiana Avenue N.W.

WASHINGTON, DC 20001

Caio.doc

ADDENDUM TO INITIAL ORDER AFFECTING ALL MEDICAL MALPRACTICE CASES

In accordance with the Medical Malpractice Proceedings Act of 2006, D.C. Code § 16-2801, et seq. (2007 Winter Supp.), "[a]fter an action is filed in the court against a healthcare provider alleging medical malpractice, the court shall require the parties to enter into mediation, without discovery or, if all parties agree[,] with only limited discovery that will not interfere with the completion of mediation within 30 days of the Initial Scheduling and Settlement Conference ("ISSC"), prior to any further litigation in an effort to reach a settlement agreement. The early mediation schedule shall be included in the Scheduling Order following the ISSC. Unless all parties agree, the stay of discovery shall not be more than 30 days after the ISSC." D.C. Code § 16-2821.

To ensure compliance with this legislation, on or before the date of the ISSC, the Court will notify all attorneys and *pro se* parties of the date and time of the early mediation session and the name of the assigned mediator. Information about the early mediation date also is available over the internet at <https://www.dccourts.gov/pa/>. To facilitate this process, all counsel and *pro se* parties in every medical malpractice case are required to confer, jointly complete and sign an EARLY MEDIATION FORM, which must be filed no later than ten (10) calendar days prior to the ISSC. Two separate Early Mediation Forms are available. Both forms may be obtained at www.dccourts.gov/medmalmediation. One form is to be used for early mediation with a mediator from the multi-door medical malpractice mediator roster; the second form is to be used for early mediation with a private mediator. Both forms also are available in the Multi-Door Dispute Resolution Office, Suite 2900, 410 E Street, N.W. Plaintiff's counsel is responsible for eFiling the form and is required to e-mail a courtesy copy to earlymedmal@dcsc.gov. *Pro se* Plaintiffs who elect not to eFile may file by hand in the Multi-Door Dispute Resolution Office.

A roster of medical malpractice mediators available through the Court's Multi-Door Dispute Resolution Division, with biographical information about each mediator, can be found at www.dccourts.gov/medmalmediation/mediatorprofiles. All individuals on the roster are judges or lawyers with at least 10 years of significant experience in medical malpractice litigation. D.C. Code § 16-2823(a). If the parties cannot agree on a mediator, the Court will appoint one. D.C. Code § 16-2823(b).

The following persons are required by statute to attend personally the Early Mediation Conference: (1) all parties; (2) for parties that are not individuals, a representative with settlement authority; (3) in cases involving an insurance company, a representative of the company with settlement authority; and (4) attorneys representing each party with primary responsibility for the case. D.C. Code § 16-2824.

No later than ten (10) days after the early mediation session has terminated, Plaintiff must eFile with the Court a report prepared by the mediator, including a private mediator, regarding: (1) attendance; (2) whether a settlement was reached; or, (3) if a settlement was not reached, any agreements to narrow the scope of the dispute, limit discovery, facilitate future settlement, hold another mediation session, or otherwise reduce the cost and time of trial preparation. D.C. Code § 16-2826. Any Plaintiff who is *pro se* may elect to file the report by hand with the Civil Clerk's Office. The forms to be used for early mediation reports are available at www.dccourts.gov/medmalmediation.

Chief Judge Lee F. Satterfield



Superior Court of the District of Columbia
CIVIL DIVISION
500 Indiana Avenue, N.W., Suite 5000
Washington, D.C. 20001 Telephone: (202) 879-1133

James Kane

Plaintiff

14-0003386

vs.

Case Number

District of Columbia

Serving Attorney General Iwan Nathan

Defendant

SUMMONS

To the above named Defendant:

You are hereby summoned and required to serve an Answer to the attached Complaint, either personally or through an attorney, within twenty (20) days after service of this summons upon you, exclusive of the day of service. If you are being sued as an officer or agency of the United States Government or the District of Columbia Government, you have sixty (60) days after service of this summons to serve your Answer. A copy of the Answer must be mailed to the attorney for the party plaintiff who is suing you. The attorney's name and address appear below. If plaintiff has no attorney, a copy of the Answer must be mailed to the plaintiff at the address stated on this Summons.

You are also required to file the original Answer with the Court in Suite 5000 at 500 Indiana Avenue, N.W., between 8:30 a.m. and 5:00 p.m., Mondays through Fridays or between 9:00 a.m. and 12:00 noon on Saturdays. You may file the original Answer with the Court either before you serve a copy of the Answer on the plaintiff or within five (5) days after you have served the plaintiff. If you fail to file an Answer, judgment by default may be entered against you for the relief demanded in the complaint.

Don Padon

Name of Plaintiff's Attorney

186 Fieldstone Dr

Address

Murphy, CA 95247

(202) 664-4395

Telephone

By

Date

Clerk of the Court
Deputy Clerk
6/2/14

如需翻译,请打电话 (202) 879-4828

Veuillez appeler au (202) 879-4828 pour une traduction

Đề có một bài dịch, hãy gọi (202) 879-4828

번역을 원하시면, (202) 879-4828 로 전화하십시오

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If you wish to talk to a lawyer and feel that you cannot afford to pay a fee to a lawyer, promptly contact one of the offices of the Legal Aid Society (202-628-1161) or the Neighborhood Legal Services (202-682-2700) for help or come to Suite 5000 at 500 Indiana Avenue, N.W., for more information concerning places where you may ask for such help.

See reverse side for Spanish translation
Vea al dorso la traducción al español

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

JAMES KANE
1426 Rhode Island Avenue NW, Unit C
Washington, DC 20005

Plaintiff,

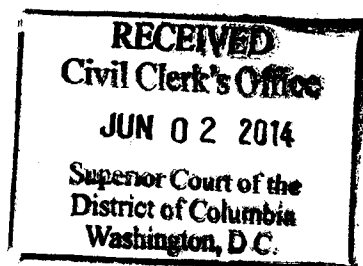
v.

DISTRICT OF COLUMBIA

Defendant.

Serving:
Mayor Vincent Gray and
Attorney General Irvin Nathan
441 4th Street NW Suite 600S
Washington, DC 20001

14 - 0003386



COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. Plaintiff, James Kane, by and through undersigned counsel, brings this complaint against the District of Columbia ("District") for violation of the Freedom of Information Act ("FOIA") (D.C. Code § 2-531 *et seq.*). As laid out more fully below, Advisory Neighborhood Commission 2F ("ANC 2F"), which is part of the government of the District of Columbia, denied Plaintiff's FOIA request without even searching for responsive documents.

PARTIES

2. James Kane is a natural person who resides in Ward Two of the District of Columbia at 1426 Rhode Island Avenue NW, Unit C, Washington DC 20005.
3. Advisory Neighborhood Commission 2F is a *non-sui juris* part of the government of the District of Columbia. ANC 2F does not maintain an office. The Chairperson of ANC 2F is Matt Raymond, whose address is 5 Thomas Circle NW, Washington DC 20005. ANC 2F consists of eight Commissioners, each of whom represent a Single Member District ("SMD") in Ward Two of the District of Columbia. Two seats were vacant when the FOIA was filed.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this matter pursuant to D.C. Code § 2-537(a)(1). This Court is the proper venue for this matter because both Parties are located in the District of Columbia and because all events relevant to this matter occurred in the District of Columbia.

BACKGROUND

5. Mr. Kane's FOIA request arises out of a controversy over a liquor license granted to Ghana Café.
6. In the fall of 2009 Ghana Café received a liquor license from the District of Columbia that was contingent on a settlement agreement that the café's owners signed with two nearby homeowner associations, ANC 2F and a group of individuals concerned about the impact that the café would have on the neighborhood. Mr. Kane was one of the signatories to the agreement.

7. The owners of the café have repeatedly tried to avoid or amend the settlement agreement. The Alcoholic Beverage Control Board has repeatedly denied the café's requests to avoid or amend the settlement agreement.
8. Most recently, starting in late 2013, Ghana Café tried to avoid or amend the settlement agreement in order to allow it to have live music and to charge a cover charge. ANC 2F apparently supported the cafe's latest attempts to avoid or amend the settlement agreement and tried to pressure some residents to accept an amended settlement agreement.
9. In March 2014, ANC 2F passed a resolution that, on information and belief, supported the cafe's efforts to avoid or amend the settlement agreement.

FACTUAL AND LEGAL ALLEGATIONS

10. On or about April 23, 2014 ANC 2F received a FOIA request from Mr. Kane.
11. Mr. Kane's FOIA request stated, in part:

Please provide for inspection all of the following that are in the possession of ANC 2F, its Commissioners or employees, or any committee or committee member of ANC 2F:

1. All documents that contain any of the following terms: Ghana Café; Ghana; 1336 14th Street; Voluntary Agreement; Settlement Agreement; resolution; Alcohol Policy Committee, APC; protestant; ABRA; ABC Board; Alcoholic Beverage Control Board; or Opare. This request includes all documents regardless of the format of the document, whether physical or electronic.
2. All emails sent or received by ANC 2F, or any commissioner of ANC 2F, that contain any of the following terms in either the subject line or the contents of the email: Ghana; ABRA; ABC Board; protestant; Miller; Moosally; Opare; or 1336. This request includes emails sent or received using an email account hosted by the Government of the District of Columbia (e.g. Chris Linn 2F03@anc.dc.gov) or an email account that is not hosted by the Government of the

District of Columbia (e.g. a Yahoo, Gmail, or AOL account used by ANC 2F or by any commissioner of ANC 2F). Thus, this request includes – without limitation – the following email accounts: anc2f@starpower.net; matt@mattraymond.com; peterlallas@gmail.com; waltcain@gmail.com; johnjfanning2@yahoo.com; jwlamare@gmail.com; melcherg@aol.com.

3. The agendas, schedules or similar documents of any meeting of ANC 2F or any committee meeting of ANC 2F at which Ghana Café was discussed either directly or indirectly.

4. The minutes, recordings, summaries or notes of any meeting of ANC 2F or any committee meeting of ANC 2F at which Ghana Café was discussed or at which the owner(s) or representative(s) of Ghana Café were present.

5. All resolutions, recommendations, position papers, letters, opinions, or similar documents passed or approved by ANC 2F or any committee of ANC 2F regarding Ghana Café. This request includes, without limitation, the resolution passed by ANC 2F on or about March 6, 2014.

6. All letters or emails or any other type of communication sent to or received from either ABRA or the ABC Board regardless of the topic or subject matter of such letter or email. This request includes, without limitation, all communication with Lavern Fletcher, an employee of ABRA.

7. All emails sent to or received from info@ghanacafe.com.

12. Mr. Kane's FOIA request was limited to the time period April 1, 2013 to April 22, 2014

13. On April 28, 2014 Matt Raymond, Chairman of ANC 2F, acknowledged receipt of Mr. Kane's FOIA request in an email sent to undersigned counsel.

14. On May 14, 2014 ANC 2F, through its Chairman, invoked a ten day extension of time to respond pursuant to D.C. Code § 2-532(d). The email from ANC 2F's Chairman stated, in full:

Pursuant to DC Code §2-532(d), this email is to inform you that I have extended ANC 2F's period of review and compliance of your FOIA request until no later than May 29.

As the officer accountable for our response, unusual circumstances have prevented my due diligence under subsections (d)1 and (d)2 within the time prescribed under §2-532(c).

Your request happened to arrive at the same time the expectations and obligations of my day job have been more extreme than at any other time during my tenure here. Multiple projects and events converging within the past couple of weeks necessitated work days often lasting 14 to 16 hours.

15. ANC 2F calculated that the new deadline for it to respond to Mr. Kane's FOIA request was May 29, 2014.

16. On May 29, 2014 ANC 2F denied Mr. Kane's FOIA request asserting that complying with the request would take too much of the Chairman's time. More specifically, ANC 2F's email asserted, in full:

Having conducted an initial review of documents and records that are potentially responsive to your request, based on the search terms you have provided, I have determined that ANC 2F is unable to respond to the totality of your request.

Searches over the requested period of 388 days (April 1, 2013, to April 23, 2014) that include all of the terms you put forward--especially the broadest among them, such as "ABRA," "ABC Board," "protestant," "Settlement Agreement," "Voluntary Agreement," "resolution," "Alcohol Policy Committee," and "APC"--indicate literally thousands of potentially responsive records. As you might imagine, ABRA matters and communications generally for ANC 2F easily dwarf all those of any other agency, and the APC is one of our most productive and prolific of committees.

It would be impossible for me as de facto agency head and FOIA officer, serving in a voluntary capacity and with other pressing obligations such as my gainful employment, to produce all of the documents sought any time into the foreseeable future. The time it would take to review individual records to determine if redactions were necessary or if they are otherwise impinged upon by privileges set forth in law, and to

reformat and prepare the responsive documents, would require a magnitude of order longer than the eight hours of personnel time contemplated under the "reasonable efforts" standard in D.C.'s FOIA law.

As you well know, Advisory Neighborhood Commissions, while subject to many of the obligations of other public bodies in the District of Columbia Government, are also uniquely impaired. Unlike other public bodies, ANC 2F in particular has no full-time, paid staff, much less a FOIA officer. Our obligations to serve our broader constituencies must be balanced against unduly burdensome administrative requests on behalf of a single individual.

It is clear from your letter that matters pertaining to Ghana Cafe are of paramount interest to you and your client. If you would like to resubmit your request with a far greater degree of sufficient particularity, I would be pleased to reconsider it. Indeed, records more narrowly focused on Ghana Cafe, even those produced over the course of more than one year, represent a small fraction of the records you currently seek and would be relatively easy to produce in short order.

I look forward to your response.

17. ANC 2F's email dated May 29, 2014 is a constructive denial of Mr. Kane's FOIA request.

18. ANC 2F is the custodian of documents that are responsive to Mr. Kane's FOIA request.

19. The District of Columbia Office of the Chief Technology Officer ("OCTO") maintains computer servers and appropriate computer software, which it uses to provide email accounts to District of Columbia employees and officials. OCTO provides a government-hosted email account to every ANC Commissioner in the city including all of ANC 2F's Commissioners.

20. OCTO saves copies of all emails sent or received using the email accounts that it provides. OCTO has a form that agencies and government officials may use to

request that OCTO search government-hosted email accounts for emails that are responsive to a FOIA request. When OCTO receives one of these search request forms it searches for responsive emails and then provides the emails to the agency requesting the search. The agency is then expected to review the emails provided by OCTO and determine which, if any, of the emails are exempt from disclosure pursuant to one of FOIA's statutory exemptions.

21. On information and belief, as of May 29, 2014, ANC 2F did not submit a request to OCTO to search ANC 2F's government-hosted email accounts for emails responsive to Mr. Kane's FOIA request.

22. Each of ANC 2F's Commissioners also maintains a non-government-hosted email account, which he or she uses to conduct official business. The non-government email accounts maintained by ANC 2F's Commissioners are:

matt@mattraymond.com
peterlallas@gmail.com
waltcain@gmail.com
johnjfanning2@yahoo.com
jwlamare@gmail.com
melcherg@aol.com

23. ANC 2F maintains a website located at: www.ANC2F.org. Each ANC 2F Commissioner lists his or her contact email on the website. For each Commissioner, the email listed is a non-government-hosted email account.

24. On information and belief, as of May 29, 2014, none of the non-government-hosted email accounts used by ANC 2F Commissioners was searched for emails responsive to Mr. Kane's FOIA request.

25. On information and belief, as of May 29, 2014, ANC 2F did not search for non-email documents that are responsive to Mr. Kane's FOIA request.

26. ANC 2F did not produce any documents responsive to Mr. Kane's FOIA request.

27. ANC 2F did not produce a Vaughn Index or cite any FOIA exemptions to justify the withholding of any responsive documents.

COUNT ONE

28. The District of Columbia violated FOIA when:

- ANC 2F failed to search for emails or non-email documents that are responsive to Mr. Kane's FOIA request and that are in ANC 2F's custody; and
- ANC 2F failed to produce documents in its custody that are responsive to Mr. Kane's FOIA request.

RELIEF SOUGHT

29. Plaintiff respectfully asks this Court to:

1. Declare that the District of Columbia violated the Freedom of Information Act;
2. Order the District of Columbia to conduct a legally adequate search for documents responsive to Mr. Kane's FOIA request;
3. Enjoin the District of Columbia from continuing to withhold documents in the custody of ANC 2F that are responsive to Mr. Kane's FOIA request;
4. Order the District of Columbia to reimburse Plaintiff for costs and fees reasonably incurred in this litigation, pursuant to D.C. Code § 2-537(c); and
5. Order such other relief as the Court finds to be just.

Respectfully submitted.



Don Padou
D.C. Bar Number 1005434
186 Fieldstone Drive
Murphys, CA 95247
202-664-4395
Don.Padou@yahoo.com

R. Brown 10:55 A.

6-1-14



**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

JAMES KANE

Vs.

C.A. No. 2014 CA 003386 B

DISTRICT OF COLUMBIA

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(2) Within 60 days of the filing of the complaint, plaintiff must file proof of serving on each defendant: copies of the Summons, the Complaint, and this Initial Order. As to any defendant for whom such proof of service has not been filed, the Complaint will be dismissed without prejudice for want of prosecution unless the time for serving the defendant has been extended as provided in SCR Civ 4(m).

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Chief Judge Lee F. Satterfield

Case Assigned to: Judge JEANETTE J CLARK

Date: June 2, 2014

Initial Conference: 9:30 am, Friday, September 12, 2014

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WASHINGTON, DC 20001

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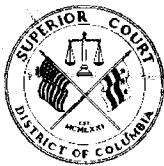
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Chief Judge Lee F. Satterfield



Superior Court of the District of Columbia
CIVIL DIVISION
500 Indiana Avenue, N.W., Suite 5000
Washington, D.C. 20001 Telephone: (202) 879-1133

James Kane

Plaintiff

vs.

14-0003386
Case Number

District of Columbia

Defendant

Serving Mayor Vincent Gray

SUMMONS

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Don Padon

Name of Plaintiff's Attorney

186 Fieldstone Dr

Address

Murphys, CA 95247

(202) 664-4395

Telephone

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Clerk of the Court

By

(Deputy Clerk)

Date

6/2/14

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SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

JAMES KANE
1426 Rhode Island Avenue NW, Unit C
Washington, DC 20005

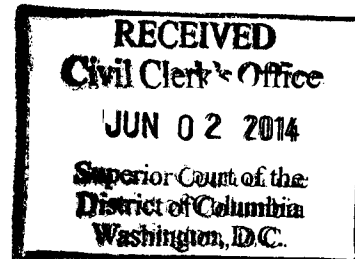
14-0003386

Plaintiff,

v.

DISTRICT OF COLUMBIA

Defendant.



Serving:
Mayor Vincent Gray and
Attorney General Irvin Nathan
441 4th Street NW Suite 600S
Washington, DC 20001

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. Plaintiff, James Kane, by and through undersigned counsel, brings this complaint against the District of Columbia ("District") for violation of the Freedom of Information Act ("FOIA") (D.C. Code § 2-531 *et seq.*). As laid out more fully below, Advisory Neighborhood Commission 2F ("ANC 2F"), which is part of the government of the District of Columbia, denied Plaintiff's FOIA request without even searching for responsive documents.

PARTIES

2. James Kane is a natural person who resides in Ward Two of the District of Columbia at 1426 Rhode Island Avenue NW, Unit C, Washington DC 20005.
3. Advisory Neighborhood Commission 2F is a *non-sui juris* part of the government of the District of Columbia. ANC 2F does not maintain an office. The Chairperson of ANC 2F is Matt Raymond, whose address is 5 Thomas Circle NW, Washington DC 20005. ANC 2F consists of eight Commissioners, each of whom represent a Single Member District ("SMD") in Ward Two of the District of Columbia. Two seats were vacant when the FOIA was filed.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this matter pursuant to D.C. Code § 2-537(a)(1). This Court is the proper venue for this matter because both Parties are located in the District of Columbia and because all events relevant to this matter occurred in the District of Columbia.

BACKGROUND

5. Mr. Kane's FOIA request arises out of a controversy over a liquor license granted to Ghana Café.
6. In the fall of 2009 Ghana Café received a liquor license from the District of Columbia that was contingent on a settlement agreement that the café's owners signed with two nearby homeowner associations, ANC 2F and a group of individuals concerned about the impact that the café would have on the neighborhood. Mr. Kane was one of the signatories to the agreement.

7. The owners of the café have repeatedly tried to avoid or amend the settlement agreement. The Alcoholic Beverage Control Board has repeatedly denied the café's requests to avoid or amend the settlement agreement.
8. Most recently, starting in late 2013, Ghana Café tried to avoid or amend the settlement agreement in order to allow it to have live music and to charge a cover charge. ANC 2F apparently supported the cafe's latest attempts to avoid or amend the settlement agreement and tried to pressure some residents to accept an amended settlement agreement.
9. In March 2014, ANC 2F passed a resolution that, on information and belief, supported the cafe's efforts to avoid or amend the settlement agreement.

FACTUAL AND LEGAL ALLEGATIONS

10. On or about April 23, 2014 ANC 2F received a FOIA request from Mr. Kane.
11. Mr. Kane's FOIA request stated, in part:

Please provide for inspection all of the following that are in the possession of ANC 2F, its Commissioners or employees, or any committee or committee member of ANC 2F:

1. All documents that contain any of the following terms: Ghana Café; Ghana; 1336 14th Street; Voluntary Agreement; Settlement Agreement; resolution; Alcohol Policy Committee, APC; protestant; ABRA; ABC Board; Alcoholic Beverage Control Board; or Opare. This request includes all documents regardless of the format of the document, whether physical or electronic.
2. All emails sent or received by ANC 2F, or any commissioner of ANC 2F, that contain any of the following terms in either the subject line or the contents of the email: Ghana; ABRA; ABC Board; protestant; Miller; Moosally; Opare; or 1336. This request includes emails sent or received using an email account hosted by the Government of the District of Columbia (e.g. Chris Linn 2F03@anc.dc.gov) or an email account that is not hosted by the Government of the

District of Columbia (e.g. a Yahoo, Gmail, or AOL account used by ANC 2F or by any commissioner of ANC 2F). Thus, this request includes – without limitation – the following email accounts: anc2f@starpower.net; matt@mattraymond.com; peterlallas@gmail.com; waltcain@gmail.com; johnjfanning2@yahoo.com; jwlamare@gmail.com; melcherg@aol.com.

3. The agendas, schedules or similar documents of any meeting of ANC 2F or any committee meeting of ANC 2F at which Ghana Café was discussed either directly or indirectly.

4. The minutes, recordings, summaries or notes of any meeting of ANC 2F or any committee meeting of ANC 2F at which Ghana Café was discussed or at which the owner(s) or representative(s) of Ghana Café were present.

5. All resolutions, recommendations, position papers, letters, opinions, or similar documents passed or approved by ANC 2F or any committee of ANC 2F regarding Ghana Café. This request includes, without limitation, the resolution passed by ANC 2F on or about March 6, 2014.

6. All letters or emails or any other type of communication sent to or received from either ABRA or the ABC Board regardless of the topic or subject matter of such letter or email. This request includes, without limitation, all communication with Lavern Fletcher, an employee of ABRA.

7. All emails sent to or received from info@ghanacafe.com.

12. Mr. Kane's FOIA request was limited to the time period April 1, 2013 to April 22, 2014

13. On April 28, 2014 Matt Raymond, Chairman of ANC 2F, acknowledged receipt of Mr. Kane's FOIA request in an email sent to undersigned counsel.

14. On May 14, 2014 ANC 2F, through its Chairman, invoked a ten day extension of time to respond pursuant to D.C. Code § 2-532(d). The email from ANC 2F's Chairman stated, in full:

Pursuant to DC Code §2-532(d), this email is to inform you that I have extended ANC 2F's period of review and compliance of your FOIA request until no later than May 29.

As the officer accountable for our response, unusual circumstances have prevented my due diligence under subsections (d)1 and (d)2 within the time prescribed under §2-532(c).

Your request happened to arrive at the same time the expectations and obligations of my day job have been more extreme than at any other time during my tenure here. Multiple projects and events converging within the past couple of weeks necessitated work days often lasting 14 to 16 hours.

15. ANC 2F calculated that the new deadline for it to respond to Mr. Kane's FOIA request was May 29, 2014.

16. On May 29, 2014 ANC 2F denied Mr. Kane's FOIA request asserting that complying with the request would take too much of the Chairman's time. More specifically, ANC 2F's email asserted, in full:

Having conducted an initial review of documents and records that are potentially responsive to your request, based on the search terms you have provided, I have determined that ANC 2F is unable to respond to the totality of your request.

Searches over the requested period of 388 days (April 1, 2013, to April 23, 2014) that include all of the terms you put forward--especially the broadest among them, such as "ABRA," "ABC Board," "protestant," "Settlement Agreement," "Voluntary Agreement," "resolution," "Alcohol Policy Committee," and "APC"--indicate literally thousands of potentially responsive records. As you might imagine, ABRA matters and communications generally for ANC 2F easily dwarf all those of any other agency, and the APC is one of our most productive and prolific of committees.

It would be impossible for me as de facto agency head and FOIA officer, serving in a voluntary capacity and with other pressing obligations such as my gainful employment, to produce all of the documents sought any time into the foreseeable future. The time it would take to review individual records to determine if redactions were necessary or if they are otherwise impinged upon by privileges set forth in law, and to

reformat and prepare the responsive documents, would require a magnitude of order longer than the eight hours of personnel time contemplated under the "reasonable efforts" standard in D.C.'s FOIA law.

As you well know, Advisory Neighborhood Commissions, while subject to many of the obligations of other public bodies in the District of Columbia Government, are also uniquely impaired. Unlike other public bodies, ANC 2F in particular has no full-time, paid staff, much less a FOIA officer. Our obligations to serve our broader constituencies must be balanced against unduly burdensome administrative requests on behalf of a single individual.

It is clear from your letter that matters pertaining to Ghana Cafe are of paramount interest to you and your client. If you would like to resubmit your request with a far greater degree of sufficient particularity, I would be pleased to reconsider it. Indeed, records more narrowly focused on Ghana Cafe, even those produced over the course of more than one year, represent a small fraction of the records you currently seek and would be relatively easy to produce in short order.

I look forward to your response.

17. ANC 2F's email dated May 29, 2014 is a constructive denial of Mr. Kane's FOIA request.
18. ANC 2F is the custodian of documents that are responsive to Mr. Kane's FOIA request.
19. The District of Columbia Office of the Chief Technology Officer ("OCTO") maintains computer servers and appropriate computer software, which it uses to provide email accounts to District of Columbia employees and officials. OCTO provides a government-hosted email account to every ANC Commissioner in the city including all of ANC 2F's Commissioners.
20. OCTO saves copies of all emails sent or received using the email accounts that it provides. OCTO has a form that agencies and government officials may use to

request that OCTO search government-hosted email accounts for emails that are responsive to a FOIA request. When OCTO receives one of these search request forms it searches for responsive emails and then provides the emails to the agency requesting the search. The agency is then expected to review the emails provided by OCTO and determine which, if any, of the emails are exempt from disclosure pursuant to one of FOIA's statutory exemptions.

21. On information and belief, as of May 29, 2014, ANC 2F did not submit a request to OCTO to search ANC 2F's government-hosted email accounts for emails responsive to Mr. Kane's FOIA request.

22. Each of ANC 2F's Commissioners also maintains a non-government-hosted email account, which he or she uses to conduct official business. The non-government email accounts maintained by ANC 2F's Commissioners are:

matt@mattraymond.com
peterlallas@gmail.com
waltcain@gmail.com
johnjfanning2@yahoo.com
jwlamare@gmail.com
melcherg@aol.com

23. ANC 2F maintains a website located at: www.ANC2F.org. Each ANC 2F Commissioner lists his or her contact email on the website. For each Commissioner, the email listed is a non-government-hosted email account.

24. On information and belief, as of May 29, 2014, none of the non-government-hosted email accounts used by ANC 2F Commissioners was searched for emails responsive to Mr. Kane's FOIA request.

25. On information and belief, as of May 29, 2014, ANC 2F did not search for non-email documents that are responsive to Mr. Kane's FOIA request.

Respectfully submitted.



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