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February 27, 2018

Delaware Department of Justice
Attn: Kim Siegel, MPA

***via email addressed to
Open Government@state.de.us***

RE: FOIA Correspondence Regarding Dewey Beach
Complaint of February 22, 2018

Dear Ms. Siegel:

Please let this serve as the Town's response to the complaint of Mr. Smith referenced above.

Attached hereto is the additional responsive information sought by Mr. Smith as well as affidavits from the FOIA Coordinator and Accounting Manager explaining the steps taken to supply the information requested. First and foremost, the Town of Dewey Beach acknowledges its duty to make every reasonable effort in locating and providing public records. In this instance, reasonable efforts to locate responsive public records produced some, but not all, of the records requested. The omission was not apparent to town personnel. For the reasons stated below and set forth in more detail in the affidavits, this oversight does not constitute a breach of the Town's inherent responsibility to diligently and in good faith endeavor to meet its FOIA obligations.

A brief summary is as follows. The omitted public record was an amended and restated insurance policy that covered the same time period as the original policy issued in 2017 with coverage dates of February 18, 2017 – February 18, 2018. In December of 2017, the original policy was amended and restated in the form of the omitted document.

Once amended, the omitted document was placed in a file on the desk of the former Director of Finance who resigned effective January 2, 2018. It was her practice to keep the current policy in easy reach on her desk. The original policy for the policy year ending in February 2018 was placed in a filing cabinet with other out of date policies. However, on its face it appeared to be current, especially to anyone who had not been advised of the amended policy. When it became time to assemble the response to Mr.

February 27, 2018

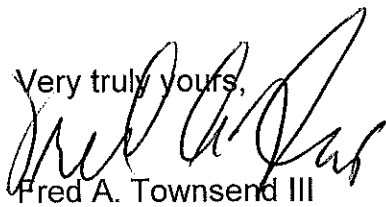
Page 2

Smith's request it was not evident that anything was missing. Policies for prior years and well as the current policy year were grouped together. The existence of amended policy only became known to staff involved in preparing the response when Mr. Smith brought it to the Town's attention. A call to the former Director of Finance revealed the location of the amended policy. Her vacancy has yet to be filled. The amended policy is attached hereto.

On behalf of the Town of Dewey Beach, I respectfully request a determination that the Town's efforts to respond to the request in question did not constitute a violation of FOIA.

If you require additional information from me, I would be pleased to supplement this material.

Very truly yours,



Fred A. Townsend III
Town Solicitor
Bar # 2920

Enclosures