

ORDER ON APPELLANT'S REQUEST FOR SUBPOENAS DUCES TECUM

IN THE MATTER OF THE APPEAL OF:

SANDRA L. ROYBAL, Appellant,

vs.

DEPARTMENT OF AVIATION,

and the City and County of Denver, a municipal corporation, Agency.

Appellant, Sandra Roybal, filed a Motion for Discovery Requests on November 15, 2011. She requested, in pertinent part, that the Agency produce all communications that exist between the Agency, or employees of the Agency, including Adam Greer, and AT & T Mobility Service between July and September 2011 that relate to Exhibit 1. Exhibit 1 was an email, dated June 30, 2011, sent to Nancy Gray, an AT & T employee, by Adam Greer, referencing replacing three broken smart phones. The Agency did not object, and Appellant's request was granted on November 22, 2011.

On January 17, 2012, Appellant filed a Request for Subpoenas Duces Tecum, specifically requesting that Nancy Gray and/or the Custodian of Records at AT & T produce the following:

- 1) All communications relating and/or evidencing Exhibit 1, the June 30, 2011 email correspondence;
- 2) A recording of the phone conversation that occurred on July 11, 2011 between Adam Greer, Appellant, and Nancy Gray;
- 3) All documents evidencing or relating to AT & T's replacement of the three 4G i phones referenced in the above requests.

On January 20, 2012, the Agency produced only written documents in response to the discovery requests, and not the recorded phone conversation that occurred on July 11, 2011, between Adam Greer, Appellant, and Nancy Gray regarding replacement of the three broken 4G i phones. Further, the Agency did not respond to Appellant's Request for Subpoenas Duces Tecum.

In the interim, Appellant filed an "Amended Pre-Hearing Statement Supplemental Submission of Exhibits." Appellant requested additional time to review the disk produced by the Agency, containing all of the documents requested pursuant to discovery, to determine if all of the requested documents were provided. Appellant also specifically requested the recording of the July 11, 2011 phone conversation referenced above, which Appellant maintains should have been produced in response to Appellant's initial discovery request and was also part of Appellant's Request for Subpoenas Duces Tecum. On January 24, 2012, Appellant repeated her

request for a subpoena of the recording of the July 11, 2011 phone conversation. I sum, the Agency did not object to Appellants Requests for Subpoena Duces Tecum, and the requests are relevant and narrowly tailored to the issues in this appeal,

ORDER

Based on the foregoing, to the extent the Agency has a recording of the July 11, 2011 phone conversation in its possession, the Agency is required to produce it by **January 27, 2012**. If the Agency does not have such recording in its possession, the Agency shall notify Appellant and the Hearing Office by that date. Subpoenas for the production of Appellant's requests ## 1-3 are GRANTED. Those subpoenas shall be issued forthwith.

DONE JANUARY 25, 2012.



Bruce A. Plotkin
Career Service Hearing Officer

I certify that on January 25, 2012, I delivered a copy of this Order to the following:

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