

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
EXECUTIVE OFFICE OF THE MAYOR  
MAYOR'S OFFICE OF LEGAL COUNSEL  
Freedom of Information Act Appeal: 2015-17**

March 9, 2015

Ms. Gwendolyn Beasley

RE: FOIA Appeal 2015-17

Dear Ms. Beasley:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537(a) ("DC FOIA"). You assert that the Department of Health ("DOH") improperly withheld records you requested under the DC FOIA on December 25, 2014 ("FOIA Request").

Background

The FOIA request you submitted to the DOH sought death certificates and medical examiner's reports concerning your parents, both of whom resided in the District of Columbia. In response to your request, by email message dated December 31, 2014, the DOH stated that the [District of Columbia] FOIA does not apply to the release of vital records, including death certificates. The DOH provided you with information about how to obtain copies of death certificates and explained that if a medical examiner's report is attached to a death certificate, the DOH might be able to provide such information; otherwise the report could be obtained from the Office of the Chief Medical Examiner ("OCME").

On appeal, you challenge the DOH's response to your FOIA Request, contending that if the DOH is able to provide you with a medical examiner's report, "a portion of my FOIA request . . . did mention and ask for the medical examiner's report. Again, please provide me with a copy of the medical examiner's report."

Discussion

It is the public policy of the District of Columbia 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. Official Code § 2-531. In aid of that policy, DC FOIA creates the right "to inspect . . . and . . . copy any public record of a public body . . ." *Id.* at § 2-532(a).

Public records are defined under the DC FOIA as including “all books, papers, maps, photographs, cards, tapes, recordings, vote data (including ballot-definition material, raw data, and ballot images), or other documentary materials, regardless of physical form or characteristics prepared, owned, used, in the possession of, or retained by a public body. Public records include information stored in an electronic format.” D.C. Official Code § 2-502(18). The right created under the DC FOIA to inspect public records is subject to various exemptions that may form the basis for denial of a request. D.C. Official Code § 2-534. One of the exemptions to the DC FOIA provides that the law does not apply to the Vital Records Act of 1981. D.C. Official Code § 2-534(d). The Vital Records Act of 1981 defines “vital records” as “certificates or reports of birth, death, marriage, divorce, annulment, and data related thereto which is permitted to be gathered under this chapter.” D.C. Official Code § 7-201(15). Accordingly, the death certificates that you requested from the DOH are not public records subject to disclosure under the DC FOIA.

Although death certificates and other vital records are not available under the DC FOIA, they can be obtained in accordance with D.C. Official Code § 7-220(a), which provides that the Vital Registrar may release vital records to an applicant who has a “direct and tangible interest in the vital record.” Under this law, a member of a registrant’s immediate family is considered to have a direct and tangible interest in the vital record. *Id.* at (a)(1). Therefore, should you wish to obtain death certificates for your parents, you may follow the process outlined on the following website: <http://doh.dc.gov/service/death-certificates>.

You indicated in your appeal that you are seeking medical examiner’s reports that may accompany your parents’ death certificates. The DOH explained in its response to your appeal that it is uncommon for the medical examiner to file a report accompanying a death certificate. The common practice is that if the medical examiner is involved in examining a deceased person, the medical examiner notes his or her conclusions for the cause of death on the death certificate itself and maintains a report at the OCME.<sup>1</sup> If, however, the medical examiner does file a report along with a death certificate, the report would be made available in connection with a properly submitted request for the death certificate.

### Conclusion

Based on the foregoing conclusion that the records you requested are not subject to the DC FOIA, we uphold the DOH’s decision to deny your request and hereby dismiss your appeal.

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<sup>1</sup> An explanation of how to request documents from the OCME may be found at: <http://ocme.dc.gov/page/request-documents>.

This constitutes the final decision of this office. If you are dissatisfied with the decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with the DC FOIA.

Sincerely,

/s Melissa C. Tucker

Melissa C. Tucker  
Associate Director  
Mayor's Office of Legal Counsel

cc: Phillip L. Husband, Esq., Department of Health (via email)