

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2015-20**

March 11, 2015

Ms. Lenore Adkins

RE: FOIA Appeal 2015-20

Dear Ms. Adkins:

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 (“DC FOIA”). In your appeal, you assert that the Metropolitan Police Department (“MPD”) improperly withheld records you requested under the DC FOIA.

Background

On November 20, 2014, you submitted a request under the DC FOIA to the MPD seeking “copies of the \$25 tickets police officers have issued to marijuana users since the District decriminalized the drug in July 2014.” The MPD responded to your request on December 5, 2014, stating that the MPD was unable to fulfill the request and that “the tickets containing some information you are requesting” are in the possession of the Office of Administrative Hearings (“OAH”). The MPD provided you with information as to how to submit a document request to OAH.

On appeal, you challenge the MPD’s response to your request, contending that just because OAH has “some” of the information you are seeking does not excuse the MPD from producing what remains in its possession.

The MPD responded to your appeal in a letter to this office on March 11, 2015. The MPD reaffirmed its position and explained that no unit within MPD has copies of the tickets you are seeking because all tickets are forwarded to OAH.

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). 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. Under the DC FOIA, an agency is required to disclose materials only if they were “retained by a public body.” D.C.

Official Code § 2-502(18). Here, MPD does not possess any records that are responsive to your request, as tickets issued to persons for using marijuana are maintained by the OAH.

Conclusion

Based on the foregoing, we uphold the MPD's decision and hereby dismiss your appeal. This constitutes the final decision of this office. If you are dissatisfied with this 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: Ronald B. Harris, Deputy General Counsel, MPD (via email)