

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2015-71**

May 28, 2015

VIA ELECTRONIC MAIL

Patrick G. Merkle, Esq.

RE: FOIA Appeal 2015-71

Dear Mr. Merkle:

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"). In your appeal, you assert that the Office of Tax and Revenue ("OTR") improperly withheld records you requested under the DC FOIA.

Background

On October March 31, 2015, you submitted a request under the DC FOIA to OTR seeking documents pertaining to all tax sales conducted of the property located at 1233 12th Street, NW (Lot 0017, Square 0314) ("Property") from 1989 to the present, in addition to documents pertaining to the notices issued by the Tax Sale Office in connection with said sales and the Tax Deed issued on July 19, 2000. The FOIA officer for OTR responded to your request on April 17, 2015, stating that "your FOIA request is now completed. There were no documents that respond to your request." You sent a letter to the Mayor dated May 22, 2015, appealing OTR's response to your request.

OTR sent this office a response to your appeal on May 27, 2015. In its response, OTR explained that the database it uses, which is known as the Integrated Tax System, maintains information dating back to tax year 2004. As a result, OTR does not possess any tax sale information related to the Property prior to 2004.

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 if they were “retained by a public body.” D.C. Official Code § 2-502(18). Here, OTR does not possess records that are responsive to your request. You are seeking records from tax sales associated with the Property from 1989 to the present, and OTR conducted a search of the records it maintains and found no responsive documents. Accordingly, OTR is unable to produce what you are seeking.

Conclusion

Based on the foregoing, we uphold OTR’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: Tracye Y. Peters, FOIA Officer, OTR (via email)