

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
EXECUTIVE OFFICE OF THE MAYOR  
MAYOR'S OFFICE OF LEGAL COUNSEL  
Freedom of Information Act Appeal: 2016-41**

May 4, 2016

VIA ELECTRONIC MAIL

Ms. Pamela Tortora

RE: FOIA Appeal 2016-41

Dear Ms. Tortora:

This letter responds to the administrative appeals you filed with the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 (“DC FOIA”) concerning a request you submitted to the District’s Department of Consumer and Regulatory Affairs (“DCRA”).

In your initial appeal you contend that DCRA failed to provide you with a copy of your landlord’s basic business license application, which you had requested. Subsequently, DCRA’s FOIA officer sent you what he believed was the document you were seeking. You then submitted another appeal to this office, stating that the “[i]nformation forwarded is not what was requested. Need signed and dated Self Certification form by [a particular applicant].”

Your second appeal prompted DCRA’s FOIA officer to advise both you and this Office that he was uncertain whether the agency maintained the signed self-certification form you were seeking, but that he would contact DCRA’s Basic Business Licensing and Information Systems divisions for guidance. This Office suspended your appeal while you and DCRA’s FOIA officer continued to engage in an ongoing, productive dialogue about the nature of your request. On May 3, 2016, DCRA notified you and this Office that it does not possess a self-certification form submitted by the individual you identified in your FOIA request.

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 . . .” D.C. Official Code § 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. *See* D.C. Official Code § 2-534. 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).

This Office was copied on correspondence between you and DCRA's FOIA officer in which you clarified the record you were seeking, and the FOIA officer described his communications with various divisions of DCRA to determine if the record exists. The FOIA officer concluded, based on the information he received from the Basic Business Licensing division, that the record you seek does not exist because such forms accompany basic business license applications that are submitted in person or by mail, and the application at issue was submitted online. DCRA's response to your request is proper under the DC FOIA in that an agency is required to disclose records only if they were retained by an agency.

Conclusion

Based on the foregoing, we accept DCRA's representation that it does not maintain a record that is responsive to your request and hereby dismiss your appeal.

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

cc: Brandon Bass, FOIA Officer, DCRA (via email)