

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
EXECUTIVE OFFICE OF THE MAYOR



Mayor's Office of Legal Counsel

October 24, 2017

VIA ELECTRONIC MAIL

Mr. Shuntay Brown

RE: FOIA Appeal 2018-10

Dear Mr. Brown:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 ("DC FOIA"), challenging the response provided by the Department of Motor Vehicles ("DMV") to your request.

Background

On September 12, 2017, you submitted a FOIA request that states:

I'm seeking the regulation or code that governs the timeframe of a motion to vacate under the DMV. What is the timeframe for a good cause hearing regarding late filing under title 50-2303.05(f)(SSsdSdSSdSSdssssdsSddsdsdSSDsDSS2) [sic] 50- 2303.05(d)(1) and 50-2303.11(f) please see attached document regarding the motion to vacate judgement and the status of limitations under the regulation that governs such motion to vacate.

On October 3, 2017, DMV responded to your request. DMV advised you that it was not obligated by DC FOIA to answer your questions. As a courtesy, DMV's response explained the inapplicability of sections of the DC Code cited by your request and explained that a motion to vacate must be filed "within 60 calendar days of the date of the admission."

On October 10, 2017, you appealed DMV's response to your request. Your appeal states in its entirety, "I m seeking the information regarding the timeframe for a good cause hearing regarding car being booted by dmv[.]"

This Office notified DMV of you appeal. On October 24, 2017, DMV responded.<sup>1</sup> DMV's response asserts that the substance of your appeal differs from what you originally requested; primarily that your original request cited to specific portions of the DC Code, whereas on appeal you describe the request as "regarding being booted and towed." Regardless, DMV reiterates that it is not obligated by DC FOIA to answer questions.

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<sup>1</sup> A copy of DMV's response is attached.

## 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).

The DC FOIA was modeled on the corresponding federal Freedom of Information Act, *Barry v. Washington Post Co.*, 529 A.2d 319, 321 (D.C. 1987). Accordingly, decisions construing the federal statute are instructive and may be examined to construe the local law. *Washington Post Co. v. Minority Bus. Opportunity Comm'n*, 560 A.2d 517, 521, n.5 (D.C. 1989).

The primary issue raised by your appeal is whether DMV is obligated to perform legal research for you. An adequate search does not require FOIA officers to act as personal researchers on behalf of requesters. *See, e.g., Bloeser v. DOJ*, 811 F. Supp. 2d 316, 321 (D.D.C. 2011) (“FOIA was not intended to reduce government agencies to full-time investigators on behalf of requesters...”); *Frank v. DOJ*, 941 F. Supp. 4, 5 (D.D.C. 1996) (an agency is not required to “dig out all the information that might exist, in whatever form or place it might be found, and to create a document that answers plaintiff’s questions”).

Here, your request amounts to a request that DMV look up statutes and regulations and explain them to you – e.g. “I’m seeking the regulation or code that governs . . . .” Your request does not reasonably describe a record, as required by 1 DCMR § 402. DMV is not obligated by DC FOIA to educate you about administrative processes. *See Zemansky v. United States Environmental Protection Agency*, 767 F.2d 569, 574 (9th Cir. 1985) (stating an agency “has no duty either to answer questions unrelated to document requests or to create documents.”); *see also* FOIA Appeal 2014-41; FOIA Appeal 2017-36; FOIA Appeal 2017-95. “FOIA creates only a right of access to records, not a right to personal services.” *Hudgins v. IRS*, 620 F. Supp. 19, 21 (D.D.C. 1985). *See also Brown v. F.B.I.*, 675 F. Supp. 2d 122, 129-130 (D.D.C. 2009).

## Conclusion

Based on the foregoing, we affirm DMV’s decision. 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 DC FOIA.

Respectfully,

Mayor’s Office of Legal Counsel

cc: David Glasser, General Counsel, DMV (via email)