

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR



Mayor's Office of Legal Counsel

November 15, 2017

VIA ELECTRONIC MAIL

Mr. Shuntay Brown

RE: FOIA Appeal 2018-33

Dear Mr. Brown:

This letter responds to the sixth administrative appeal you have submitted to the Mayor this year under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 ("DC FOIA"). Here, you are challenging the response provided by the District of Columbia Housing Authority ("DCHA") to your request.

Background

On November 13, 2017, a request you submitted to DCRA was forwarded to DCHA, which states:

I'm seeking to know which department under DCHA governs the lease purchase agreement under chapter 14- 9217.2. DCHA IS UNSURE IF THE LEASE PURCHASE AGREEMENT IS APPLICABLE TO THE FOLLOWING PROGRAM HCV, HOAP OR THE FSS PROGRAM. PLEASE SHARE WITH US THE PROGRAM THAT GOVERNS 14- 9212.2.

On November 13, 2017, DCHA responded to you by informing you that:

The DC FOIA requires that requests describe the records sought with sufficient detail to allow the agency to locate the records with a reasonable amount of effort. Your request does not adequately describe the records sought, therefore, we are unable to process it at this time. Furthermore, your request is for an answer to a question and DC FOIA does not require agencies to answer questions when responding to requests.

On November 15, 2017, you appealed DCHA's response. In your single-sentence appeal, you state, "I'm seeking to appeal this decision for not applying the answer to the question under D.C. Code § 2-534 and 1 DCMR 412, the following question is not a In [sic] exemptions under the foia law."

This Office did not ask DCHA to respond to your appeal, because there is sufficient information in your filing for us to render a decision on the matter.

Your request amounts to a question (i.e., “which department under DCHA governs the lease purchase agreement under chapter 14- 9217.2”). As this Office has explained to you before, DC FOIA does not compel agencies to answer your questions; DC FOIA gives you the right to inspect records. *See* FOIA Appeal 2018-9; FOIA Appeal 2018-10; FOIA Appeal 2018-12.

Your request does not reasonably describe a record as required by 1 DCMR § 402, and DCHA is not obligated to answer your questions. *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. The law only requires the disclosure of nonexempt documents, not answers to interrogatories. *Di Viaio v. Kelley*, 571 F.2d 538, 542-543 (10th Cir. 1978). “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).

We find DCHA’s response to your request to be consistent with 1 DCMR § 402.5’s requirement that in the event of an ambiguous request, agencies should contact requesters to “supplement the request with the necessary information.”

Conclusion

Based on the foregoing, we affirm DCHA’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: Mario Cuahutle, Associate General Counsel, DHCA (via email)