

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 2018-34

Dear Mr. Brown:

This letter responds to the seventh 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 Department of Consumer and Regulatory Affairs ("DCRA") to your request.

Background

On November 2, 2017, you submitted a request to DCRA, 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 11, 2017, you filed two duplicative appeals for this request. This Office did not docket an appeal, because it appeared that you had misfiled the original request by sending to DCRA a request for District of Columbia Housing Authority ("DCHA") records. On November 13, 2017, DCRA sent you the contact information for the FOIA Officers at DCHA and the Department of Energy and Environment – where DCRA believed responsive records might be held. DCRA asked if you intend to continue with your appeal. On November 15, 2017, by email you indicated you wished to proceed with the appeal (though you did not include DCRA in the 4 carbon copies you sent). Additionally, you filed another appeal via FOIAXpress.

In your single-sentence appeal, you state, "The information fails to provide the program that provides services regarding lease purchase."

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

Your request amounts to an interrogatory (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; FOIA Appeal 2018-33.

Your request does not reasonably describe a record as required by 1 DCMR § 402, and DCRA 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).

Because we find that your request does not reasonably describe a record, we need not reach the question of the adequacy of the search.

### Conclusion

Based on the foregoing, we affirm DCRA’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: Erin Roberts, FOIA Officer, DCRA (via email)