

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR

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[REDACTED]
[REDACTED]

Office of the General Counsel to the Mayor

May 31, 2007

VIA EMAIL and US MAIL
[REDACTED]

Alexandria, VA 22004
[REDACTED]

Re: Freedom of Information Act Appeal

Dear [REDACTED]

This letter responds to your two concurrent administrative appeals to the Mayor under the District of Columbia Freedom of Information Act (the "DC-FOIA"), D.C. Official Code § 2-531 *et seq.* (2001 & 2006 Supp.), dated April 9 and 18, 2007, and received in this office on April 24, 2007 (the "DHR Appeal" and the "DCRA Appeal").

In an initial request to the District of Columbia Department of Consumer and Regulatory Affairs ("DCRA") dated March 5, 2007, you requested "all files and notes pertaining to my interviews for a Zoning Tech position, subsequent performance assessments and termination documentation beginning May 1, 2006 though [sic] today, March 5, 2007" (the "DCRA FOIA Request"). In an initial request to the District of Columbia Department of Human Resources ("DHR") dated April 9, 2007, you requested "all files and notes pertaining to my interviews for a Zoning Tech position, subsequent performance assessments and termination documentation beginning May 1, 2006 though [sic] today, March 5, 2007" (the "DHR FOIA Request").

DCRA responded to the DCRA FOIA Request by letter to you, dated April 4, 2007. DCRA indicated that they conducted a thorough search of all files and were unable to locate any responsive records. DCRA letter, at p. 1.

DHR responded to the DHR FOIA Request by email to you, dated April 13, 2007. DHR noted that their investigation revealed that you were a contractor with DCRA and not an employee. DHR indicated that they did not have the information that you requested, as they only maintain personnel records for District government employees and not contractors. DHR email, at p.1.

We forwarded the Appeal to both DCRA and DHR with requests for response. No response was received from DCRA. DHR's response, by email dated April 30, 2007, reiterated DHR's position. Agencies are only obligated under DC-FOIA to disclose records kept in their possession and are not obligated to create or search for documents maintained outside the government. *Kissinger v. Reporters Committee for Freedom of the Press*, 445 U.S. 136, 100 S. Ct. 960, 63 L. Ed.2d 267 (1980). The record reflects that the information requested is not

maintained by either of the agencies from whose decisions you appeal. Accordingly, your appeals are hereby DISMISSED¹.

You are free to commence in a civil action against the District of Columbia government in D.C. Superior Court if you are not satisfied with this decision.

Regards,



Andrew T. "Chip" Richardson, III
Deputy General Counsel to the Mayor

cc (by e-mail): Jessica Pimentel
Selena Robinson

¹ Since both the DCRA and DHR FOIA requests were identical and the reasons given for denying the requests in both instances were identical, and equally applicable, the appeal is dismissed as to both requests.