

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-092**

July 16, 2020

VIA ELECTRONIC MAIL

Mr. Michael Ayele

RE: FOIA Appeal 2020-092

Dear Mr. Ayele:

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 failure of the Department of Motor Vehicles (“DMV”) to respond to your FOIA request.

On January 27, 2020, you submitted a FOIA request to DMV. Before DMV’s time to respond to your FOIA request had passed, you filed this FOIA appeal. On February 5, 2020, DMV responded to your FOIA appeal indicating that it had at least conducted a search for records relating to you. DMV located records for another person with the same first and last name but with a different middle name and date of birth. At this juncture, since your appeal was filed before DMV’s time to respond to your FOIA request, we could dismiss your appeal as moot noting that you were free to file a new appeal after you reviewed DMV’s response. However, for the sake of administrative convenience, we have elected to review the merits of your appeal.

As to efforts by DMV to locate records, we note that your FOIA request does not actually identify the records you wanted from DMV. Your request is a long paragraph describing your employment relationship with a facility in a different state. You also attached a 12-page document entitled “Decade in Review” which also did not request any documents. DMV conducted its search assuming that you wanted DMV records relating to you. To the extent you only wanted records relating to you, the agency’s response that there were no responsive records moots your appeal. However, if you wanted other records, your request failed to identify any records that you were requesting.

FOIA requires that requests describe the records sought with sufficient detail to allow an agency employee familiar with the subject area of the request to locate the records within a reasonable amount of time. More specifically, 1 DCMR § 402.4 states that:

A request shall reasonably describe the desired record(s). Where possible, the specific information regarding names, places, events, subjects, dates, files, titles, file designation or other identifying information shall be supplied.

In addition, under FOIA, an agency “has no duty either to answer questions unrelated to

document requests or to create documents.” *Zemansky v. United States Environmental Protection Agency*, 767 F.2d 569, 574 (9th Cir. 1985). 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).

Based on the foregoing, we therefore conclude that the DMV properly responded to your FOIA request and we hereby deny your appeal.

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 in the Superior Court of the District of Columbia in accordance with D.C. Official Code § 2-537.

Respectfully,

Mayor’s Office of Legal Counsel

cc: Ariel W. Reed, Assistant General Counsel/FOIA Officer
DMV (via email)