

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-148**

September 2, 2020

VIA ELECTRONIC MAIL

Mr. Michael Ayele

RE: FOIA Appeal 2020-148

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. Code § 2-537 (“DC FOIA”), challenging the determination by the Department of Housing and Community Development (“DHCD”) that it has no records responsive to your FOIA request.

On February 23, 2020, you submitted a FOIA request to DHCD that consisted of a series of questions and appeared to seek all communication between the Fulton Police Department and the United States Department of Justice (“DOJ”) regarding two named individuals. The questions you asked principally concerned various Equal Employment Opportunity Commission (“EEOC”) regulations. On March 13, 2020, DHCD replied to your request by informing you that it does not maintain the records you seek and referring you to DOJ instead. You subsequently appealed from the DHCD’s denial of your request. On March 24, 2020, DHCD responded to your appeal by again explaining that it does not maintain records of communications between DOJ and third parties and suggesting that the DHCD could refer your questions about the EEOC to that agency.¹

Under the DC FOIA, an agency has no obligation to search for records that it does not maintain, and “has no duty either to answer questions unrelated to document requests or to create documents.” *Zemansky v. United States Envtl. Prot. 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 conclude that the DHCD properly responded to your FOIA request and we hereby deny your appeal.²

¹ A copy of DHCD’s response to your appeal is attached.

² Although DHCD may voluntarily refer your questions about the EEOC to that agency, we note that DHCD is under no obligation to do so.

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. Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: Tonya Condell, Assistant General Counsel and FOIA Officer
DHCD (via email)