

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeals: 2020-162 & 2020-163**

August 26, 2020

VIA ELECTRONIC MAIL

Mr. Michael Ayele

RE: FOIA Appeals 2020-162 and 2020-163

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 response of the Department of Health Care Finance (“DHCF”) to your FOIA request.

You submitted a FOIA request to DHCF that consisted of a series of questions about medical marijuana in the District of Columbia. When you did not receive answers to your questions, you filed this appeal. You did not offer any arguments in support of your appeal, but instead posed additional questions. DHCF responded to your appeal by explaining that your request did not actually seek any documents.¹

Under the DC FOIA, an agency “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 determined that your FOIA request did not seek any records from the agency, 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. Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

¹ A copy of DHCF's response to your appeal is attached.

cc: Kevin O'Donnell, Attorney Advisor and FOIA Officer
DHCF (via email)