

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
EXECUTIVE OFFICE OF THE MAYOR  
MAYOR'S OFFICE OF LEGAL COUNSEL  
Freedom of Information Act Appeal: 2020-177**

November 5, 2020

VIA ELECTRONIC MAIL

Mr. Michael Ayele

RE: FOIA Appeal 2020-177

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 Insurance, Securities and Banking (“DISB”) that it has no records responsive to your FOIA request.

You submitted a FOIA request to DISB that consisted primarily of comments and questions about medical marijuana dispensaries in the District. When DISB informed you that it did not have records responsive to your request, you filed an appeal with this Office in which you asked additional questions related to marijuana legalization and suggested that DISB may have some records on the topics you asked about. DISB responded to your appeal by explaining that you did not request any documents that are in the possession or control of the DISB.<sup>1</sup>

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 Env't'l 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).

To the extent that your FOIA submission requested any specific records, they are not the kind

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<sup>1</sup> A copy of DISB’s response to your appeal is attached to this decision.

of records that would be in the control of possession of DISB, which regulates insurance, securities, and banking. Based on the foregoing, we conclude that the DISB 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. Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: M. Claudine Alula, FOIA Coordinator  
DISB (via email)