

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-201**

September 22, 2020

VIA ELECTRONIC MAIL

Mr. Michael Ayele

RE: FOIA Appeal 2020-201

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 Small and Local Business Development (“DSLBD”) that it had no records responsive to your FOIA request.

You submitted a FOIA request to DSLBD that consisted primarily of comments and questions about marijuana legalization. When DSLBD informed you that it was not required to respond to your questions and that it had no records concerning the subject matter you inquired about, you filed an appeal with this Office. DSLBD responded to your appeal by explaining that your lengthy statement and multiple interrogatory-like requests to the agency were beyond the scope of the DC FOIA and had no nexus to the agency.¹

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'tl. 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).

Your request took the form of a series of lengthy questions about a subject matter outside the

¹ A copy of DSLBD’s response to your appeal is attached to this decision.

scope of DSLBD's responsibilities, and the agency was under no obligation to respond to those questions. Based on the foregoing, we conclude that the DSLBD properly responded to your DC 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: Lorenzo McRae, Interim General Counsel
DSLBD (via email)