

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
EXECUTIVE OFFICE OF THE MAYOR  
MAYOR'S OFFICE OF LEGAL COUNSEL  
Freedom of Information Act Appeal: 2022-016**

April 29, 2022

VIA ELECTRONIC MAIL

Mr. Michael Ayele

RE: FOIA Appeal 2022-016

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 DC Department of Consumer and Regulatory Affairs (“DCRA”) that it has no records responsive to your DC FOIA request.

You submitted a 35-part DC FOIA request to DCRA that primarily consisted of a series of questions and document requests unrelated to the work of DCRA. You also requested “documents outlining the benefits provided by your offices to female employees who are pregnant (in terms of paid family and medical leave of absences).” DCRA sent you a response, explaining that it “found no documents responsive to your DC FOIA request as the records that you seek are not agency records.”

You subsequently filed an appeal with this Office in which you sought clarification regarding benefits provided to pregnant DC government employees. DCRA responded to your appeal by explaining that it “protects the health, safety, economic interests, and quality of life of residents, businesses, and visitors in the District of Columbia by ensuring code compliance and regulating business” and based on the services it provides, none of the requested records “would be created, maintained or in custody of the agency.”<sup>1</sup>

DC 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 DC 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

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

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 DCRA 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: Erin J. Roberts, FOIA Officer  
DCRA (via email)