

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2022-212**

December 20, 2022

VIA ELECTRONIC MAIL ONLY

Mr. Steve
Thompson

RE: FOIA Appeal 2022-212

Dear Mr. Thompson:

This letter responds to the administrative appeal that you have submitted to the Mayor pursuant to the District of Columbia Freedom of Information Act, D.C. Code § 2-537 (“DC FOIA”). In your appeal, you have asserted the District of Columbia Housing Authority (“DCHA”) has failed to respond to your DC FOIA request.

As a background, on July 29, 2022—by way of an email exchange with Sheila Lewis, the Director of Public Affairs and Communications for DCHA—you made the following inquiry:

On what date was this document sent to the BoC?

Is it a standard document that is produced every month, or if not, why was it produced for this particular month?

The occupancy decline that occurred over the previous four years – is there a chart or spreadsheet you could send me that puts numbers on that decline?

Is the strategic occupancy plan laid out in a document that you could send me a copy of?

Ms. Lewis notified you the “agency deemed [your] request made pursuant to FOIA”, on August 4, 2022.

On September 16, 2022, we notified DCHA of your appeal and requested a response. DCHA’s FOIA Officer responded on September 19, 2022 stating that she was never made aware of your request for records, and as such, it was never processed under FOIA.

Under 1 DCMR § 402, a DC FOIA request “may be mailed, faxed or e-mailed to the agency Freedom of Information Officer, or agency head *in the absence of a designated Freedom of Information Officer.*” (emphasis added). The intent of this procedure is to centralize requests for records so they do not fall through the cracks.

From your appeal, there is no indication that you submitted your request to DCHA’s FOIA

Officer, or through the District's FOIA submission portal.

Based on the foregoing, your appeal is denied. If you wish to make a request for records from DCHA, you may submit the request to foia@dchousing.org.

Notwithstanding the aforementioned basis for this denial, 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).

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 accordance with D.C. Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: Kimberly J. August, DCHA FOIA Officer (via email only)