

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2022-157**

February 2, 2023

VIA ELECTRONIC MAIL

Mr. Michael Ziemke

RE: FOIA Appeal 2022-157

Dear Mr. Ziemke:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 (“DC FOIA”), on the grounds that the Department of Motor Vehicles (“DMV”) improperly charged you a fee to process your DC FOIA request.

On January 27, 2022, you submitted a DC FOIA request to DMV for a “[l]ist of license plate numbers of all vehicles owned and operated by DC city government” with a date range for record search of January 1, 2021 to January 27, 2022. Because you did not withdraw your request when DMV informed you the estimated fee was more than you had indicated you were willing to pay, on March 4, 2022, DMV provided you with the requested list and charged you a \$200 search fee. DMV’s response included an explanation of the fee assessment. On June 13, 2022, you filed an appeal with this Office challenging the fee.

This Office’s jurisdiction is limited to “review[ing] the public record to determine whether [a record] may be withheld from public inspection.” D.C. Official Code § 2-537(a). We generally do not interpret our authority to include adjudicating disputes over FOIA fees unless an estimated fee is so excessive as to constitute a constructive denial or if a requester is improperly required to pre-pay a fee. Here, you were not required to pre-pay a fee to receive the responsive record. Therefore, we decline to make any findings as to the amount of the fee at issue.

Based on the foregoing, we consider your appeal to be moot due to lack of jurisdiction, and it is dismissed. 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 government in the Superior Court of the District of Columbia in accordance with the DC FOIA.

Respectfully,

Mayor’s Office of Legal Counsel

cc: Pamela B. Washington, Assistant General Counsel & FOIA Officer, DMV (via email)