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**DEPARTMENT OF JUSTICE**  
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**OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF DELAWARE**

**Attorney General Opinion No. 19-IB03**

**February 11, 2019**

**VIA EMAIL**

Mustafa Mohammad Musawwir  
7231 N. Keating Ave.  
Lincolnwood, IL 60712  
mmusawwir2@gmail.com

**RE: FOIA Petition Regarding the Department of State**

Dear Mr. Musawwir:

We write in response to your correspondence alleging that the Delaware Department of State violated the Delaware Freedom of Information Act, 29 *Del. C.* §§ 10001-10007 (“FOIA”). We treat your correspondence as a Petition for a determination pursuant to 29 *Del. C.* § 10005(e) regarding whether a violation of FOIA has occurred or is about to occur. In response to your FOIA request for records directed to the Department, you were instructed that the records you requested could be obtained from the Department, after payment of the appropriate fee, in any one of four different ways. Rather than pursue any of these options, you filed a Petition with this Office. Accordingly, we find no FOIA violation has occurred.

**BACKGROUND**

On January 20, 2019, you submitted a FOIA request to the Department’s online FOIA mailbox, seeking “all records on SY Property 3701 LLC . . . [for] [t]he time period from 01/01/2015 to 01/16/19 . . . .”<sup>1</sup> On January 22, 2019, the Department responded to your request, explaining that in order to obtain copies of the public records you requested, you needed to submit your request through the Department’s website and provide the Department with the appropriate fee of \$10.<sup>2</sup> The Department offered you a link to its website, provided you a phone

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<sup>1</sup> Petition.

<sup>2</sup> Response, p. 2.

number you could call to make the request, offered to LiveChat over its website with you, and provided an email where you could submit your request.<sup>3</sup> The Department explained to you how the requisite fee could be processed through check, money order, debit card, or credit card.<sup>4</sup> This Petition followed.

### DISCUSSION

FOIA provides citizens access to “public records.”<sup>5</sup> However, with regard to the specific records you have requested from the Department, Delaware law provides:

The Secretary of State may issue photocopies or electronic image copies of instruments on file, as well as instruments, documents and other papers not on file, and for all such photocopies or electronic image copies, whether certified or not, a fee of \$10 shall be paid for the first page and \$2.00 for each additional page. Notwithstanding Delaware’s Freedom of Information Act (Chapter 100 of Title 29) or other provision of law granting access to public records, the Secretary of State upon request shall issue only photocopies or electronic image copies of public records in exchange for the fees described in this section, and in no case shall the Secretary of State be required to provide copies (or access to copies) of such public records (including without limitation bulk data, digital copies of instruments, documents and other papers, databases or other information) in an electronic medium or in any form other than photocopies or electronic image copies of such public records in exchange, as applicable, for the fees described in this section or § 2318 of Title 29 for each such record associated with a file number.<sup>6</sup>

Delaware law is clear; the records you have requested from the Department may be obtained from the Department only after you provide the appropriate fee. The Department is not required to provide copies of the public records you requested under FOIA.

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<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> 29 *Del. C.* § 10001.

<sup>6</sup> 6 *Del. C.* § 18-1105(a)(5).

**CONCLUSION**

Based on the foregoing, it is our determination that the Department of State has not violated FOIA as alleged.

Very truly yours,



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Aaron R. Goldstein  
Chief Deputy Attorney General

cc: Patricia A. Davis, Deputy State Solicitor  
Laura Gerard, Deputy Attorney General  
Dorey Cole, Deputy Attorney General