

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

DEMOCRACY FORWARD)	
FOUNDATION,)	
)	
Plaintiff,)	
v.)	
)	Case No: 17-CV-01297 (RCL)
U.S. DEPARTMENT OF)	
TRANSPORTATION,)	
)	
Defendant.)	

DEFENDANT’S ANSWER TO PLAINTIFF’S COMPLAINT

Defendant United States Department of Transportation (“Defendant” or “DOT”), through its undersigned counsel, hereby answers Plaintiff Democracy Forward Foundation’s (“Plaintiff”) Complaint brought under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 as follows:

FIRST DEFENSE

The information sought by Plaintiff may be exempt from release in full or in part under one or more exemptions of the FOIA, 5 U.S.C. § 552, as amended.

SECOND DEFENSE

Plaintiff’s Complaint fails to state a claim upon which relief may be granted.

THIRD DEFENSE

Plaintiff has not reasonably described the records it is seeking as is required under FOIA, pursuant to 5 U.S.C. § 552(a)(3)(A).

FOURTH DEFENSE

The FOIA requests at issue, in whole or in part, fail to seek agency records subject to FOIA.

DEFENDANT'S RESPONSES TO THE NUMBERED PARAGRAPHS

Defendant responds to the Complaint in like-numbered paragraphs as follows:

JURISDICTION AND VENUE¹

1. Paragraph 1 contains Plaintiff's conclusions of law, to which no response is required.
2. Paragraph 2 contains Plaintiff's conclusions of law, to which no response is required.

PARTIES

3. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.
4. Admit that DOT is a federal agency and is headquartered in Washington, DC. The remainder of Paragraph 4 asserts conclusions of law, to which no response is required. To the extent any response is required, the allegations are denied.

FACTS

5. Paragraph 5 characterizes the content of two news articles, to which no response is required. To the extent any response is required, Plaintiff's characterization of those news articles is denied. Defendant further responds by referring the Court to the January 22, 2017, and April 22, 2017, news articles referenced in this paragraph for a true and complete statement of their contents, and denies the allegations in this paragraph to the extent inconsistent with the content of those articles.

¹ For ease of reference, Defendant refers to Plaintiff's headings, but to the extent those headings could be construed to contain factual allegations, those allegations are denied.

6. Paragraph 6 characterizes the content of three news articles, to which no response is required. To the extent any response is required, Plaintiff's characterization of those news articles is denied. Defendant further responds by referring the Court to the January 16, 2017, February 15, 2017, and January 17, 2017, news articles referenced in this paragraph for a true and complete statement of their contents, and denies the allegations in this paragraph to the extent inconsistent with the content of those articles.
7. Paragraph 7 characterizes the content of a news article dated April 5, 2017, to which no response is required. To the extent any response is required, Plaintiff's characterization of that article is denied. Defendant further responds by referring the Court to the referenced article for a true and complete statement of its contents, and denies the allegations in this paragraph to the extent inconsistent with the content of that article.
8. Paragraph 8 characterizes the content of a news article dated May 1, 2017, to which no response is required. To the extent any response is required, Plaintiff's characterization of that article is denied. Defendant further responds by referring the Court to the referenced article for a true and complete statement of its contents, and denies the allegations in this paragraph to the extent inconsistent with the content of that article.

PLAINTIFF'S FOIA REQUEST

9. Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 9.

10. Admit that Plaintiff submitted a FOIA request dated May 19, 2015. Defendant respectfully refers the Court to the FOIA request for a true and complete statement of its contents, and denies the allegations in this paragraph to the extent inconsistent with the content of the referenced request.
11. Admit that Plaintiff sought a waiver of search and duplicating fees. The remaining allegations in Paragraph 11 assert a conclusion of law in reference to 5 U.S.C. § 552, to which no response is required. Defendant respectfully refers the Court to the referenced statute for a true and complete statement of its contents.
12. Admit.
13. Paragraph 13 contains conclusions of law, to which no response is required.
14. Paragraph 14 contains conclusions of law, to which no response is required.
15. Defendant admits that, as of the date of the Complaint, it has not provided Plaintiff with a final determination on Plaintiff's FOIA request or produced responsive records. Defendant denies the remaining allegations in this paragraph, including the implication that Defendant has failed to comply with its obligations under FOIA with respect to this request.
16. Paragraph 16 contains conclusions of law, to which no response is required.

CLAIM FOR RELIEF

17. Defendant incorporates by reference each and every response contained in the preceding paragraphs.
18. Paragraph 18 contains conclusions of law, to which no response is required. To the extent a response is deemed necessary, Defendant denies.

Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, Defendant asserts a general denial as to those allegations contained in the Complaint that are not specifically admitted herein. The remainder of the Complaint sets forth Plaintiff's prayer for relief to which no response is required. To the extent a response is deemed required, Defendant denies that Plaintiff is entitled to the relief for which Plaintiff prays or to any other relief as to Defendant.

WHEREFORE, having fully answered, Defendant respectfully requests that the Complaint be dismissed with prejudice and that this Court award Defendant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

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