



THE CITY OF NEW YORK  
OFFICE OF THE MAYOR  
NEW YORK, NY 10007

May 14, 2019

Taylor-Scott Amarel  
MuckRock News  
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Re: FOIL Appeal (Request No. FOIL-2019-002-00236)

Dear Taylor-Scott Amarel:

This letter is in response to your letter received on April 30, 2019, appealing the response to your request dated April 3, 2019, under the Freedom of Information Law, Public Officers Law § 84 et seq. ("FOIL"). Your request sought "the last 200 pages of emails sent to, from, or copied to Mayor Bill de Blasio" containing the term "EB-5." You further instructed:

[S]tart with the most recent email (as of the time you receive this request). Convert this email to PDF and then proceed to the immediately prior email until 200 pages of emails have been produced. I request that you ignore spam, junk mail, or newsletters.

The Records Access Officer denied the request on April 9, 2019, stating:

Public Officers Law §89(3)(a) requires that a request "reasonably describe" the records sought. It is the requester's responsibility to frame requests with sufficient particularity to enable the searching agency to determine precisely what records are being requested. The office cannot determine precisely what records you seek as no guidelines exist to define a "page" of email, e.g., whether page lengths of emails also include their attachments, or whether they include email headers, etc. Further, because emails are not maintained sequentially by page, it is impossible to precisely determine the two hundred sequentially ordered pages sought by your request. As such, your request is denied pursuant to Public Officers Law §89(3)(a).

Your appeal stated: "The definition of 'page' is clearly defined in my request. Open the most recent email. Convert it to PDF, if that results in a 5 page PDF then continue converting emails until another 195 pages are generated."

As the Records Access Officer's denial stated, Public Officers Law § 89(3)(a) requires that a request reasonably describe the records that are being sought. There is no standardized method for converting an e-mail to a PDF or determining whether, for example, attachments, headers, footers, or metadata should be included in the PDF. As a result, there remains significant ambiguity about what records are being requested; the request thus "superimposes a layer of subjective analysis" onto this agency's response effort that is not required under FOIL and that cannot be cured with the provision of the suggested guidelines. *See Nat'l Sec. Counselors v. CIA*, 960 F. Supp. 2d 101, 158 (D.D.C. 2013). Given the foregoing, I find that the response of the Records Access Officer was reasonable and appropriate.

Your appeal, therefore, is denied.

You may seek judicial review of this determination pursuant to CPLR Article 78.

Very truly yours,

  
Dustin M. Saldarriaga  
Records Appeals Officer

cc: Anna Kitsmarishvili

Robert J. Freeman  
Director, Committee on Open Government