STATE OF MICHIGAN

COURT OF CLAIMS

MICHIGAN FAIR ELECTIONS INSTITUTE,

Plaintiff,

v Case No. 25-000179-MZ

MICHIGAN BUREAU OF ELECTIONS, Hon. Sima G. Patel

Defendant.
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OPINION AND ORDER GRANTING DEFENDANT'S 1/26/26 MOTION FOR SUMMARY DISPOSITION

Plaintiff, Michigan Fair Elections Institute, filed suit seeking to compel the production of information requested from defendant, Michigan Bureau of Elections, under the Freedom of Information Act (FOIA), MCL 15.231 *et seq*. Following oral argument on June 4, 2026, the Court concludes that plaintiff did not describe the records sought "sufficiently to enable the public body to find the public record" in either its FOIA request or in its complaint. MCL 15.233(1). Accordingly, the Court GRANTS defendant's motion for summary disposition and DISMISSES plaintiff's action.

I. BACKGROUND

On October 20, 2025, plaintiff submitted a FOIA request to defendant for

> [c]opies of the underlying records referenced by the "Entire State Next Election Voted List" standard report. For clarity, we are not requesting a copy of this report, rather we are requesting copies of *the underlying records in the tables queried to*

> *generate this report*, whether the specific records would be included in the report or not. [Emphasis added.]

Defendant denied the request three days later because it claimed, "the Department does not possess records responsive to your request and would have to create a record in order to answer this." Defendant further stated it "is not obligated to conduct research or create records in order to respond to a request."

Plaintiff did not appeal the denial to the head of the agency, choosing instead to file a complaint in this Court. Plaintiff claimed that defendant wrongfully denied its FOIA request. Plaintiff asserted that MCL 168.509o[1] requires defendant to establish and maintain a computerized database "to manage records and information responsive to the Oct 20 FOIA Request." Plaintiff cited *Ellison v Dep't of State*, 320 Mich App 169; 906 NW2d 221 (2017), for the proposition that records in a computer database are public records subject to FOIA. But plaintiff did not expound upon its description of the records sought.

Defendant moved for summary disposition pursuant to MCR 2.116(C)(8) and (10) in lieu of filing an answer to the complaint, stating plaintiff "flatly asserts that [defendant] has records responsive to its request but makes no factual allegation identifying the specific records sought." Defendant explained that the "Entire State Next Election Voted List" report includes "the names and information for voters who have already returned ballots for the next upcoming election (i.e., absent voters and early voters)." Defendant conceded that it produces the report. However, defendant asserted that plaintiff failed to identify the records that would be responsive to the

[1] MCL 168.509o(1) requires the Secretary of State to "direct and supervise the establishment and maintenance of a statewide qualified voter file."

request in the complaint, supporting dismissal under (C)(8). Defendant also produced an affidavit from Deputy Director of Elections Adam Fracassi, who interpreted the FOIA request as seeking "the documents that triggered the data entries populating the report." That information, Fracassi asserted, was part of the Qualified Voter File (QVF). Local clerks enter the information into the QVF and retain the documents from which that information is gathered—voter registration forms, absent voter applications, and absent ballot return status. Accordingly, defendant contended plaintiff sought information from the wrong governmental entity.

Plaintiff responded that its request was sufficiently clear and defendant should have understood it "asked for copies of records contained in database tables that are queried to produce an electronic report generated and published by" defendant and not the paper records from which the information for the data entry was culled. Although plaintiff explained that defendant had changed its practice of producing a single daily report with a certain number of columns and rows to producing three separate reports with a different number of columns and rows, plaintiff still did not describe the information that was omitted from the new reports.

Plaintiff also challenged the adequacy of Fracassi's affidavit to rebut the complaint, because Fracassi was not defendant's FOIA coordinator. Plaintiff argued that Fracassi's affidavit demonstrated that defendant fully understands what records are sought and how to generate a report to answer the FOIA request. Plaintiff again cited *Ellison*, 320 Mich App at 172-174, this time for the proposition that defendant would not be required to create a new record to answer the request because the information was already in defendant's database, i.e. the QVF.

II. LEGAL PRINCIPLES

Defendant seeks summary disposition under MCR 2.116(C)(8) and (10).

> A motion under MCR 2.116(C)(8) tests the *legal sufficiency* of a claim based on the factual allegations in the complaint. When considering such a motion, a trial court must accept all factual allegations as true, deciding the motion on the pleadings alone. A motion under MCR 2.116(C)(8) may only be granted when a claim is so clearly unenforceable that no factual development could possibly justify recovery.
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> A motion under MCR 2.116(C)(10), on the other hand, tests the *factual sufficiency* of a claim. When considering such a motion, a trial court must consider all evidence submitted by the parties in the light most favorable to the party opposing the motion. A motion under MCR 2.116(C)(10) may only be granted when there is no genuine issue of material fact. A genuine issue of material fact exists when the record leaves open an issue upon which reasonable minds might differ. [*El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 159-160; 934 NW2d 556 (2019) (quotation marks and citations omitted).]

III. ANALYSIS

At the outset, the Court concludes that plaintiff's challenge to Fracassi's affidavit lacks merit. Fracassi supervises "the public release of information, including coordinating with the work area that manages the state" QVF. Fracassi was the most knowledgeable person to explain the events underlying this suit.

Moreover, the Court concludes that plaintiff did not sufficiently describe the records sought in the FOIA request, in its complaint, or even in response to defendant's summary disposition motion. At issue is the interpretation of plaintiff's request for "the underlying records in the tables queried to generate this report," i.e. the "Entire State Next Election Voted List" report. Plaintiff clarified at oral argument that it was seeking the back-end tables used to populate the "Entire State Next Election Voted List" report, although it still could not explain what data categories were omitted in the transition from one daily report to three. This belated explanation demonstrates that plaintiff's FOIA request, complaint, and response to the motion for summary disposition did not "describe[] a public record sufficiently to enable the public body to find the public record" as required by MCL 15.233(1).

As described in *Herald Co v Bay City*, 463 Mich 111, 121; 614 NW2d 873 (2000), "the Legislature did not impose detailed or technical requirements as a precondition for granting the public access to information. Instead, the Legislature simply required that any request be sufficiently descriptive to allow the public body to find public records containing the information sought." The FOIA request need not "describe the specific public records to be disclosed"; "it would be odd indeed to ask a party who has no access to public records to attempt specifically to describe them." *Id*.

In *Ellison*, 320 Mich App at 172-174, the plaintiff sought information from the Secretary of State regarding vehicle registrants who were denied registration based on an inability to verify proof of insurance. The specific categories of information sought by the plaintiff were included in an insurance database, but there were no reports that included the specific information sought. The Secretary of State denied the FOIA request because it claimed it would be required to create a new report. The Court of Appeals held that the insurance database itself was a public record. *Id*. at 176-177. The Court of Appeals found a question of fact regarding whether the Secretary of State would have to create a new record in *Ellison*, 320 Mich App at 178:

> Summary disposition on these grounds would be improper because there is a question of fact regarding whether defendant could have copied the database without creating a new, more specifically responsive record.
>
> A FOIA request need only be descriptive enough that a defendant can find the records containing the information that the plaintiff seeks. When a plaintiff does not ask the defendant to create a new record, the fact that the defendant had no obligation to create a record says nothing about its obligation to satisfy plaintiff's request in some other manner. In this case, simply because defendant could have created a strictly responsive record does not mean that it could not have satisfied plaintiff's request by copying the back-end tables. Plaintiff requested "any" information that was included in its list. The database's tables contained much of the information plaintiff sought. [*Id*. at 178 (cleaned up).]

The situation is this case is similar to but also distinguishable from *Ellison*. It became clear at oral argument that plaintiff is seeking the back-end tables used to generate the "Entire State Next Election Voted List," which is a front-end, or more accessible table. That plaintiff's request only became clear through oral argument supports that plaintiff's FOIA request did not itself sufficiently describe the information sought. The language employed by plaintiff was unclear and could be interpreted in different ways. Indeed, plaintiff's very generalized and generic request could be interpreted as requesting the entirety of the QVF, although plaintiff has denied that point.

Accordingly, the Court finds that defendant is entitled to summary disposition under both MCR 2.116(C)(8) and (10). The proper recourse for plaintiff is to file a new FOIA request, using the lessons from this suit to more clearly describe the back-end tables it is seeking. Defendant may then review the request and determine if any exemptions prevent production of the records.

IT IS ORDERED:

1. Defendant's motion for summary disposition is GRANTED.
2. Plaintiff's complaint is DISMISSED WITH PREJUDICE.
3. This is a final order resolving all issues in this case.

Date: June 5, 2026

Sima G. Patel
Judge, Court of Claims