



Congress of the United States
House of Representatives
Washington, DC 20515

The Honorable Eric Adams
Mayor of New York City
City Hall
New York, NY 10007

April 5, 2024

Dear Mayor Adams:

We write to renew our request that the City of New York, after more than 20 years, fully disclose what the Giuliani Administration knew about the harmful impacts of the toxins released in the 9/11 attacks. It is long past time for the City to comply fully with disclosing the requested records to the public. This letter is in follow up to correspondence we sent to then-Mayor DeBlasio on September 20, 2021, and to you on May 12, 2022 and February 16, 2023. We have enclosed copies of those letters and your responses.

More than 22 years have passed since the terrorist attacks of September 11th, 2001, but the City still refuses to be transparent about what the Giuliani Administration knew about the danger of the toxins that covered lower Manhattan and Western Brooklyn at the same time it was publicly stating that it was safe for the public to return to the area surrounding Ground Zero. To this day, thousands of New Yorkers and countless first responders continue to deal with the health impacts of the toxins that were in the air at that time. The City dishonors these men and women, many now dead, by refusing to open its 9/11 files to the public.

Instead of simply releasing the requested documents, the City continues to publicly contradict itself. In 2001, while then-Mayor Giuliani's administration publicly stated that the air was safe to breathe, they were privately predicting 10,000 liability claims for injuries from toxic exposures. An October 2001 memorandum to Deputy Mayor Robert Harding said that the city was facing up to 10,000 liability claims related to 9/11, "including toxic tort cases that might arise in the next few decades."¹

Today, the City of New York's lawyers are aware that there is damaging information contained in the City's files. In February of 2024, a spokeswoman from your office was quoted saying, "we are aware of requests to produce city documents on the aftermath of the attacks, which would

¹ Anthony DePalma, *Ground Zero Illnesses Clouding Giuliani's Legacy*, the New York Times, May 14, 2007, <https://www.nytimes.com/2007/05/14/nyregion/14giuliani.html>

require extensive legal review to identify privileged material and liability risk, and are exploring ways to determine the cost of such a review.”²

Additionally, you have also indicated that your team is aware of records about what the Giuliani administration knew about air quality following the 9/11 attacks. When asked about that issue in a March 2024 press conference, you responded, “in regards to the 9/11 report, corp counsel and the entire team, they're going to make that determination because that didn't take place under this administration. They're going to make that determination on what's going to be released and what's not.”³

Despite these statements, the City of New York’s Department of Environmental Protection (DEP) and Office of Emergency Management (OEM) denied a September 2023 Freedom of Information Law (FOIL) request from 911 Health Watch. Absurdly, the FOIL request and appeal was denied on the grounds that “no responsive records were found.”⁴ It is difficult to believe that there is not a single record in DEP and OEM’s files from the last 22 years addressing the environmental catastrophe that resulted from the largest attack on American soil.

Under FOIL, the City’s “records are presumptively open to public inspection, without regard to need or purpose of the applicant.” Beechwood Restorative Care Ctr. v. Signor, 5 N.Y.3d 435, 440–41, 842 N.E.2d 466, 469 (2005). Additionally, New York Courts have long held that “all government records are presumptively open for public inspection unless specifically exempted from disclosure as provided in the Public Officers Law Sec. 87(2).” Fappiano v. New York City Police Dept., 95 N.Y.2d 738, 746, 747 N.E.2d 1286, 1289 (2001)

While New York law provides for certain exemptions for government documents subject to FOIL, the City has cited no specific exemption enabling it to withhold the documents. In response to our previous letters, the City has cited concerns about the potential liability that these documents could create. In the March 2023 response to our February 2023 letter, the City noted it seeks “federal legislation” to make the disclosure “economically and legally feasible,” by guaranteeing additional protections from lawsuits.⁵ However, liability is not an allowable exception under FOIL to keep these documents from the public.

We are continuing our call for the City to provide full transparency on what the Giuliani administration knew about the health risks at Ground Zero. Specifically, we respectfully request the City to:

² Thomas Tracy, *Mayor Adams won't release 9/11 toxin reports until NYC's liability risk determined*, New York Daily News, February 26th, 2024, <https://www.nydailynews.com/2024/02/26/mayor-adams-wont-release-9-11-toxin-reports-until-nycs-liability-risk-determined/>

³ *Transcript: Mayor Adams Holds In-Person Media Availability*, the Official Website of the City of New York, March 5, 2024, <https://www.nyc.gov/office-of-the-mayor/news/166-24/transcript-mayor-adams-holds-in-person-media-availability>

⁴ *Effort to Get New York City to Release 9/11 Documents*, 9/11 Health Watch, <https://www.911healthwatch.org/effort-to-get-new-york-city-to-release-9-11-documents/>

⁵ Mayor Eric Adams, Letter to Representative Jerrold Nadler and Representative Dan Goldman, March 22, 2023, <https://www.911healthwatch.org/files/2023-0322-NYC-Response--Reps.-Nadler-Goldman-911-records.pdf>

1. Release the full copy of the memorandum from the Giuliani administration from Deputy Mayor Robert M. Harding from October 2001 and any correspondence that led to his writing and drafting of this memo.
2. Release any records, communications, or memorandums from the New York City Departments of Health and/or Environmental Protection that address the scope and toxicity of the WTC plume and dust, and the exposures New Yorkers experienced.
3. Release any internal notes or memorandums regarding the Department of Education's decision to direct kids and teachers back into schools in the frozen zone below Houston street.
4. Respond in writing to the following questions: regarding the decision to move kids and teachers back into schools in the frozen zone below Houston Street -- what were the deliberations in the Department of Education at the time? What testing was done to determine the safety of the schools?

Your Administration has the opportunity to provide justice to its residents whose health has suffered from the dangerous air quality in Manhattan following the 9/11 attacks. If the City Department of Investigations were to conduct a search for and release the aforementioned documents, the City could prove its commitment to transparency and accountability. Continuing to keep these records in the dark is not an option.

In other regards, we believe this administration has been a tremendous partner to the New York Congressional delegation in supporting 9/11 victims, survivors, and their families. Just this past year, your administration supported our work to provide additional funding for the World Trade Center Health Program and expand the program to Pentagon and Shanksville crash site first responders. We are thankful for your partnership in those efforts. However, the City can and must do more.

We look forward to your response.

Sincerely,



JERROLD NADLER
Member of Congress



DAN GOLDMAN
Member of Congress