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March 7, 2026

Records Appeals Officer

Jeffrey Lowell
Office of the Mayor/City of New York
FOILAppeal@cityhall.nyc.gov

Re: Appeal of Response to Freedom of Information Request
dated February 27, 2026

FOIL Number: 2023-002-00733

Subject Matter: Preparation For/Response to
Collapse of World Trade Center, September 11, 2001

Appeals Officer Lowell:

We represent Phil Alvarez on behalf of his brother, NYPD Detective Luis G. Alvarez, deceased; Benjamin Chevat, Director of 9/11 Health Watch; Karen Klingon, Executrix of the Estate of Robert Klingon (resident of lower Manhattan); Yvonne Baisley, Executrix of the Estate of FDNY Firefighter Robert Fitzgibbon; and Charlotte Berwind, Executrix of the Estate of volunteer firefighter Charles E. Flickinger, Jr.

The September 8, 2023 FOIL Request: Pursuant to the Freedom of Information Law (“FOIL”), on September 8, 2023, our clients requested public records from the Office of the Mayor (“Mayor’s Office”) concerning the response of the City of New York (“City”) to the September 11, 2001 collapse of the World Trade Center, along with historical documents and disaster preparation materials. **(Exhibits 1 and 2)** These public records concern risk assessments made by the City for the reopening of lower Manhattan and public schools in September 2001, and the City’s knowledge of airborne toxic hazards, existing at that time. We also requested documents explaining why the Mayor sought liability protection from toxic exposure claims while the City assured the public that the air was safe.

We appeal your letter dated February 27, 2026, styled as a “response” to our FOIL request, submitted thirty (30) months ago. **(Exhibit 15)** The Mayor’s Office responds on behalf of itself, the New York City Law Department (“Law Department”) and Department of Design and Construction (“DDC”) (collectively, “respondents”). Id.

Essentially, the “response” is a denial, providing nothing more than internet links to long available public information, half of which originated with federal agencies or Congress. Id. The Mayor and Law Department advise that they have no September 11th-related documents to disclose. Id.

The February 27, 2026 Response of the Mayor and Law Department: Respondents produce no responsive records, explaining “diligent searches” cannot locate them. (**Exhibit 15**)

City searchers:

“have not identified any records responsive to your request under FOIL.”

Id.

“the Law Department records are not maintained in a manner that allows it to search for records responsive to the request.” Id.

The City’s Response is Devoid of Credibility

Contradicted by available information, these assertions lack credibility. We demonstrate that the records sought exist and are accessible.

Petitioners even found a critical document, the “Deputy Mayor Robert Harding memo,” an October 2001 summary of risk assessments circulated in the Mayor’s Office, that the respondents deny having. We obtained the Harding Memo, earlier this year, from a non-public source, as more fully detailed below. Why are Petitioners and their volunteer legal team able to find such documents, *outside* of City archives, while official records custodians cannot locate them *inside* City Hall or the Law Department?

The official February 27th “response” results from a cursory online search, reminiscent of one done in a junior high school civics class.

After what you describe as a “diligent search” for records concerning the most significant event in City history, killing 2,753 immediately and sickening hundreds of thousands, many fatally, you provide nothing more than internet links to a handful of ancient documents. (**Exhibit 15**) How are the Mayor’s Office and Law Department able to treat this request so casually?

Half of the links do not even concern City records, but, instead, access federal documents, publicly available for decades. These linked records include a 2003 report from the Inspector General of the U.S. Environmental Protection Agency, 2004 Congressional testimony by Janet Heinrich (U.S. Govt Accountability Office), and proposed regulations from the U.S. Department of Health & Human Services, circa 2012. Id. The absurdity of the February 27th “response” is eclipsed only by its uselessness.

We sought previously undisclosed City documents, not stale federal records. Was our request unclear? Is there a reading comprehension issue on the part of the searchers? Or, most likely, is there a continued effort to keep the City’s September 11th archive sealed from public view?

We did not submit our FOIL request and prepare an earlier appeal (**Exhibit 13**), spending hours of attorney time, for this pitiful result. Providing this internet “search list” mocks the

Freedom of Information Law, the City's legal obligations, and all affected by the September 11th disaster.

The February 27th letter cites the City's inability to identify "*any records responsive to your request under FOIL.*" (**Exhibit 15**) The City Department of Environmental Protection ("DEP") made an identical and equally baseless assertion during *its* initial responses to our FOIL request. The outcome is instructive.

After fighting us and denying the existence of any September 11th-related records for two years, rejecting our FOIL administrative appeal and moving to dismiss our Article 78 proceeding, the DEP now admits it has at least 68 boxes worth, some 340,000 pages. (See, *Chevat v. NYC DEP*, 155678/2024 Supreme Court of New York County, incorporated by reference in its entirety: [Document List](#)) We now seek sworn testimony from decision makers responsible for DEP's baseless obstruction, along with attorneys' fees and costs. *Id.* We will take the same course with respect to the February 27th response of the Mayor's Office and Law Department.

The Freedom of Information Law "imposes a broad duty on government to make its records available to the public. (Public Officers Law Sec. 84 [legislative declaration]) Moreover, access to government records does not depend on the purpose for which the records are sought." Gould v. New York City Police Dep't, 89 N.Y.2d 267, 274 (Ct App. 1996) 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 Department, 95 N.Y.2d 738, 746 (Ct. App., 2001). Under FOIL, City "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 (Ct. App. 2005) With respect to FOIL 2023-003-00733, you provide no justification or objection, set forth in Public Officers Law Sec. 87, to withhold the requested documents.

There is considerable evidence that the documents we seek exist. As explained below, due to its collection, scanning and preservation of September 11th-related records, the Law Department maintains them. The Law Department also instructed original document creators/custodians to retain the records, indefinitely. We do not accept your contrary statement.

You add that there is no ability to search the records. "*The Law Department's records are not maintained in a manner that allows it to search for records responsive to the request.*" (**Exhibit 15**) This assertion is unsupported by any explanation or evidence, and appears to be untrue, for the reasons set forth below.

I. The City Maintains Ready Access to September 11th Records

Respondents fail to demonstrate that the records are not accessible. "*At a CPLR article 78 proceeding to challenge an agency's denial of access to the documents on this ground, the agency has the burden to demonstrate that it cannot retrieve the requested documents with reasonable effort.*" Wagner v. New York City Dep't of Educ., 2025 N.Y. Slip Op. 05783, 2025 WL 2955704, at *3 (Ct. App. 2025) Respondents cannot meet this burden.

The City September 11th archives are accessible and searchable, as demonstrated below.

A. Law Department Collected, Scanned and Catalogued September 11th Records

The Mayor's Office, like all City agencies and departments, received a special 2002 directive from the Law Department's "World Trade Center Unit," a task force addressing September 11th-related legal issues. **(Exhibit 6)** Without qualification or limitation, the World Trade Center Unit instructed the Mayor's Office to identify and preserve all documents concerning its response to the WTC collapse. In 2002, the World Trade Center Unit advised the Mayor's Office, as follows:

*These original World Trade Center documents have been collected and scanned by the New York City Law Department. **DO NOT DISPOSE OF THESE DOCUMENTS:** they must be preserved to serve as evidence in the event future WTC-related legal actions are brought against the City. (Exhibit 6 at 2002 Preservation Letter)(Original emphasis)*

To accept the February 27, 2026 response as credible, one must assume the Law Department completed this collection and scanning campaign, subjecting the documents to an indefinite hold, but without devising any means to search and access them. Why would a specialized legal defense team, created with great fanfare and a formal press release **(Exhibit 6)**, do something so useless or incompetent? Were the scanned files not labeled or given descriptive titles? Are the PDF documents simply numbered, sitting unsorted and unidentified on hard drives or in cloud storage? Is there no index of them? Aren't the documents searchable? Tellingly, your letter answers none of these basic information technology questions. The "accessibility" excuse is a pretext for obstruction.

At inception, the Law Department's World Trade Center Unit employed twenty-five attorneys, seventeen support members, including private investigators, and a large complement of legal assistants and data entry clerks. It stood ready to defend against an anticipated "*litigation explosion*" of September 11th-related claims. **(Exhibit 6 at press release)** A September 11th archive of City records, assembled and maintained in accessible and searchable formats, would be foundational to the World Trade Center Unit's mission. Your letter does not address this reality.

The Law Department also boasts of "Litigation Management" and "Electronic Discovery" teams. **(Exhibits 18 and 19)** These specialized sections manage "*tens of millions of documents,*" "*implement legal holds, collect and process electronic data, set up document reviews,*" and operate "*the Law Department's document management system.*" Such sophisticated information management further undercuts the City's contention that its September 11th archive cannot be searched.

B. The City Identified Responsive Documents as a Result of a Congressional Inquiry

In response to the efforts of the New York Congressional delegation to obtain these same records, starting in 2021, the Mayor's Office sought a *quid pro quo*. Having identified relevant

materials, the City asked for immunity, other legal protections, and “economic” support for the release of September 11th public records, records that should be freely available under FOIL. (See, **Exhibit 7**: Letter of Rep. Nadler and Rep. Goldman, dated February 16, 2023: “ *Corporation Counsel attorneys clearly stated they have a strong incentive to keep any 9/11 aftermath documents privileged because otherwise, the city would be liable for those claims.*” Responding letter of Mayor Adams, dated March 22, 2023: “ *We are happy to work with your offices to determine potential federal funding sources and any necessary federal legislation to make production of documents economically and legally feasible for the City of New York.*”) Petitioners seek the information the City identified but denied to members of Congress. These documents most certainly exist.

II. The FOIL Response of the Law Department and Mayor’s Office is Out of Step with Recent Movement Toward Opening the September 11th Archive

Although this latest obstruction is consistent with decades of resistance to opening the City’s September 11th archive, your response (**Exhibit 15**) conflicts with the following developments.

A. On November 25, 2025, Mayor Adams promised disclosures from the City’s September 11th archive. He spoke concerning the Article 78 proceeding addressing DEP’s failure to comply with our FOIL request. (See, [Chevat v. NYC DEP](#), 155678/2024 Supreme Court of New York County, incorporated by reference in its entirety: [Document List](#))

*"As one of the many first responders at Ground Zero on 9/11 and in the weeks that followed, Mayor Adams has been unwavering in his commitment to ensuring victims, their families, first responders, and survivors receive the care and services they deserve," the spokesperson said. "While we cannot comment on the specifics of pending litigation, the city has begun turning over documents to plaintiff's counsel, and both parties are working out a schedule to continue this process. **We remain dedicated to getting 9/11 victims and their families the answers they need**, and thank the brave men and women who risk their lives every day to keep our city safe."*

(Source: <https://abc7ny.com/post/fdny-union-leaders-demand-answers-discovery-documents-911-toxins-ground-zero/18202801/>)(emphasis added)

The February 27, 2026 response conflicts with this previous commitment of the Adams’ administration. Please reconsider your position, and start providing 9/11 victims and families the answers they have sought for twenty-five (25) years, as your former boss promised.

B. The Mayor’s Office denies being able to find the “Deputy Mayor Robert Harding Memo,” an October 2001 assessment of City liabilities for miscommunications concerning air safety in lower Manhattan and the failure to provide respiratory protection to first responders. Our FOIL request sought the Harding memo and its underlying bases. (**Exhibits 1 and 2**)

The City withheld the Harding memo from the New York Congressional delegation (since 2021; **Exhibit 7**) and Petitioners (since 2023). Petitioners obtained it, independently, from an archive in Austin, Texas in February 2026. (**Exhibit 16**)

You fail to explain your inability to locate this record and its supporting bases. Please provide the original and complete Harding memo, along with all information informing its content (studies, assessments, reports, communications)

C. On July 14, 2025, the New York City Council enacted Resolution 560-A (“Resolution 560-A”), directing the Department of Investigation (“DOI”), one of the country’s premier investigative agencies, to “conduct an investigation to ascertain the knowledge possessed by mayoral administrations on environmental toxins produced by the September 11, 2001 terrorist attacks on the World Trade Center and to submit a report to the Council thereon.” (**Exhibit 10: Resolution 560-A and Record of Passage**)

The unwillingness of the Mayor’s Office to respond to our FOIL request is among the examples in the supporting legislative record of the City’s resistance to disclosing September 11th information. (**Exhibit 10**)

One would imagine that, with a pending law enforcement investigation into this institutional resistance, the Mayor’s Office and Law Department would be more forthcoming, today. Oddly, they are not. A reasonable FOIL appeals officer, attuned to these developments, might reconsider the position set forth in the February 27 response . (**Exhibit 15**) Please do so, now.

D. On February 4, 2026, incoming Corporation Counsel, Steve Banks, testified before the New York City Council Committee on Rules, Privileges, Standards, Ethics and Elections. In response to questioning by Speaker Menin and Member Brewer, the City’s chief attorney pledged to conduct a full review of the City’s September 11th archive in order to make public disclosure. “*We are going to review what we have, what others have and release or make available what can be made available.*” There was a single caveat to this anticipated disclosure: Mr. Banks, quite understandably, voiced objection to releasing confidential personal and medical information. In addition, as to the City Council resolution directing the DOI investigation, Mr. Banks testified, “I am supportive of your law.” (**Exhibit 17**) ([See](https://www.youtube.com/watch?v=C1My8IC6V6E) also, video of hearing, available at: <https://www.youtube.com/watch?v=C1My8IC6V6E>)

Your February 27th response (**Exhibit 15**) cannot be reconciled with Mr. Banks’ fresh commitment to transparency. Please address this contradiction, in detail.

III. After Years of Obstruction by the Mayor’s Office, the February 27, 2026 Response is a Denial, Most Appropriately Addressed in an Article 78 Hearing

Before the February 27, 2026 letter, the Mayor’s Office extended its own time to respond to the request on more than ten (10) occasions. (**Exhibit 3**) By granting itself these FOIL postponements, the Mayor’s Office delayed responding over a span encompassing three

September 11th anniversaries. By letter dated December 24, 2025 (**Exhibit 14**), in your capacity as Records Appeals Officer, you even denied our previous FOIL appeal. (**Exhibit 13**)

You indicated that our record requests required “detailed searches and thorough review.” (**Exhibit 14**) You then promised to “produce any responsive records...by February 27, 2026.” Id.

Today, after your February 27th response, we do not have a single document from the Mayor or Law Department.

The following chart summarizes the series of delays of the Mayor’s Office, concluding with the failure to produce any responsive documents on February 27, 2026 (**Exhibit 15**)

EVENT	DATE
Original 911/Health Watch FOIL Request to Mayor's Office	September 8, 2023
Mayor's Office promises response on or about October 30, 2023	September 8, 2023
Mayor's Office grants itself extension to December 29, 2023	November 1, 2023
Mayor's Office grants itself extension to March 27, 2024	January 2, 2024
Mayor's Office grants itself extension to June 21, 2024	March 28, 2024
Mayor's Office grants itself extension to August 18, 2024	June 26, 2024
Mayor's Office grants itself extension to November 15, 2024	August 20, 2024
Mayor's Office grants itself extension to February 13, 2025	November 28, 2024
Mayor's Office grants itself extension to May 9, 2025	February 18, 2025
Mayor's Office grants itself extension to August 14, 2025	May 12, 2025
Mayor's Office grants itself extension to November 28, 2025	August 19, 2025
Mayor's Office grants itself extension to February 27, 2026	December 24, 2025
Mayor's Office Responds on February 27, 2026 with No Requested Records	February 27, 2026

(See **Exhibit 3** for earlier communications from Mayor’s Office concerning the FOIL request)

This serial delay, spanning 2.5 years, is unreasonable, violating the letter and spirit of New York’s public record access laws; that it culminated in the production of an internet search by the City’s Records Appeals Officer is farcical.

IV. The Subject FOIL Request

Pursuant to the Freedom of Information Law, on September 8, 2023, we requested various records from the Mayor’s Office concerning the response of the City to the September 11th attacks, along with historical records and disaster preparation materials. (**Exhibit 1**) In a good faith effort to expedite responses, we edited and reduced our FOIL request (**Exhibit 2**) due to the parallel actions of the New York City Council and the Department of Investigation (“DOI”).

On July 14, 2025, the New York City Council enacted Resolution 560-A (“Resolution 560-A”), directing the DOI, one of the country’s premier investigative agencies, to “conduct an investigation to ascertain the knowledge possessed by mayoral administrations on environmental toxins produced by the September 11, 2001 terrorist attacks on the World Trade Center and to submit a report to the Council thereon.” (Exhibit 10: Resolution 560-A and Record of Passage)

The unwillingness of the Mayor’s Office to respond to our FOIL request is among the examples in the supporting legislative record of the City’s resistance to disclosing September 11th information. As Resolution 560-A sets forth, reciting the work of 9/11 Health Watch to access the City’s public records:

Whereas, On September 8, 2023, 911 Health Watch Inc. filed a Freedom of Information Law (FOIL) request seeking documents from several New York City agencies relating to the knowledge possessed by the City on the environmental toxins produced by the attacks and the potential harm posed by these toxins, including documents relating to the testing and cleaning of schools in lower Manhattan and the potential evacuation of neighborhoods in Manhattan and Brooklyn in the aftermath of the attacks; and

Whereas, 911 Health Watch Inc. received denials in response to the FOIL request; and

Whereas, To date, there has not been a comprehensive investigation by New York City of the knowledge possessed by mayoral administrations on the dangers of the environmental toxins produced by the September 11, 2001 terrorist attacks on the World Trade Center and when this knowledge accrued; now, therefore, be it:

*Resolved, That the Council of the City of New York, pursuant to section 803 of the New York City Charter, directs the **Department of Investigation to conduct an investigation to ascertain the knowledge possessed by mayoral administrations on environmental toxins produced by the September 11, 2001 terrorist attacks at the World Trade Center and to submit a report to the Council thereon.** (Exhibit 10) (emphasis added)*

As sponsoring Council member Gale Brewer described, “*the legislation is a direct response to the Adams administration’s refusal to release the documents despite requests from members of Congress, advocates, and the media.*” (Exhibit 11)(emphasis added)

As United States Representatives Jerrold Nadler and Dan Goldman explained, following the enactment of Resolution 560-A, multiple mayoral administrations resisted release of the City’s September 11th archive, beginning with Mayor de Blasio (Exhibit 7 at p. 2: 2021 request to **de Blasio Administration**):

For years, we have demanded transparency from the **Adams Administration** about what the **Giuliani** and **Bloomberg Administrations** knew about toxins in the air following 9/11 and when they knew it. We sent multiple letters to the **Adams Administration** requesting the release of critical records, yet each time, they denied our requests. Their lack of a meaningful response denied justice to the thousands of New Yorkers and first responders who continue to deal with or have died from health complications due to the air quality following 9/11.

With the passage of Resolution 560, New York City's Department of Investigation has the power to discover exactly what Mayor Giuliani knew about the toxins in the air after 9/11 while claiming it was safe for New Yorkers to return.

These records could provide long overdue accountability for potentially devastating decisions that cost thousands of lives. New Yorkers deserve the truth. We're finally about to get some answers. (**Exhibit 12:** July 15, 2025 Statement of Representatives Nadler and Goldman on passage of Resolution 560-A: "*Representatives Nadler and Goldman Applaud NYC Council for Forcing City to Finally Release the Truth About 9/11 Air Toxins*")

In an effort to streamline and expedite the response of the Mayor's Office, in view of the DOI investigation, we edited and reduced our FOIL request, as set forth at **Exhibit 2**. Petitioners identified the documents with specificity, satisfying New York's "*requirement that requested records be reasonably described exists to ensure that the responding agency has the ability to locate the records sought.*" Wagner v. New York City Dep't of Educ., 2025 WL 2955704, at *2 (Ct. App., 2025)(internal citations omitted) Respondents do not contest this specificity in the February 27, 2026 letter. (**Exhibit 15**)

As modified/amended, we withdrew requests 3, 4, 5b. and 6 through 28. We sought responses to the following requests, only (original items at request numbers 1, 2 and 5a, c, d, and e):

1. October 2001 memorandum from Deputy Mayor Robert M. Harding referenced in May 14, 2017 New York Times article entitled, "*Ground Zero Illnesses Clouding Giuliani's Legacy.*" ("Harding memo")
2. Underlying documents, studies, reports, assessments, memoranda, factual bases and other written information that informed the Harding memo's estimate or projection of anticipated future claims from WTC toxic exposure.
5. With respect to the following provision of the *Air Transportation Safety and System Stabilization Act of 2001*, Pub. L. No. 107-42, 115 Stat. 230 (2001): **(3) Limitations on liability for New York City.**--*Liability for all claims, whether for compensatory or punitive*

damages or for contribution or indemnity arising from the terrorist-related aircraft crashes of September 11, 2001, against the City of New York shall not exceed the greater of the city's insurance coverage or \$350,000,000. 49 U.S.C.A. § 40101

a. Written communications, dating from September, October and November 2001, such as correspondence, email, and memoranda, with all attachments, concerning limitations on liability for the City of New York (“City”), to the following individuals and offices:

i. The White House and the Office of the Executive;

ii. Any United States Senator and their office;

iii. Any Committee of the United States Senate and/or its staff;

iv. Any member of the U.S. House of Representatives or their staff;

v. The United States Justice Department; and

vi. United States Environmental Protection Agency.

c. Documents setting forth the names of consultants and consulting firms, lobbyists and lobbying firms, that worked with the City in the effort to secure the limitations on liability, referenced above.

d. Documents setting forth the amount of compensation issued/paid by the City to the consultants and consulting firms, lobbyists and lobbying firms identified in response to request c., above.

e. Documents setting forth: the number of meetings (taking place in September, October and November 2001), dates of meetings, location of meetings, identity of those in attendance, concerning the efforts to secure the limitations on liability, set forth above, along with summaries of meetings and copies of the written materials reviewed at each meeting.

Requests numbered 3, 4, 5b. and 6 through 28 (**Exhibit 1**) were withdrawn.

V. Without Justification, the Mayor’s Office Postponed Responding From 2023 until February 2026

Rather than respond by producing *any* documents for review (not one page, to date), the Mayor’s Office granted itself a series of postponements (known as “extensions” in FOIL parlance) spanning more than *two years* and three September 11th anniversaries. (**Exhibit 3**)

The Mayor’s Office announced the postponements, ten (10) in total, via the City’s FOIL portal, using the following template language:

The Mayor's Office (OOM) has **extended** the time to respond to your FOIL request FOIL-2023-002-00733 for the following reasons:

You can expect a response on or about Thursday, March 19, 2026.

Additional Information: Due to the volume of requests that we have received, we are extending the due date on this request.

(Exhibit 3: Mayor's Office December 1, 2025 FOIL extension, its tenth [10th])

Other than citing a volume of other, unrelated FOIL requests, the Mayor's Office provided zero justification for the delay. This cursory explanation, devoid of detail, was never an appropriate basis for a single FOIL response extension, let alone ten (10) of them.

The two-plus year delay in responding was unreasonable and obstructive. This is especially so given that the final "response" of the Mayor's Office and Law Department is a hasty internet search. The Freedom of Information Law itself directs the response of the Mayor's Office within five (5) business days of the request, not thirty (30) months later (September 2023 to March 2026) or even longer:

3. (a) Each entity subject to the provisions of this article, within **five business days** of the receipt of a written request for a record reasonably described, shall make such record available to the person requesting it, deny such request in writing or furnish a written acknowledgement of the receipt of such request and a statement of the approximate date, which shall be reasonable under the circumstances of the request, when such request will be granted or denied, including, where appropriate, a statement that access to the record will be determined in accordance with subdivision five of this section. **N.Y. Pub. Off. Law § 89** (McKinney)(emphasis added)

If the five-day window is too brief, the FOIL statute requires the Mayor's Office to provide a statement of the approximate date for production, one "*reasonable under the circumstances.*" Id.

By designating ten different future dates for a response, and then failing to meet any of these self-extended deadlines over the course of more than two years, the Mayor's Office never provided any semblance of an actual timeframe or date for document production, a violation of FOIL.

None of the adjourned dates was ever demonstrated to be reasonable, realistic or reliable. The Mayor's Office simply disregarded the next date that it selected, and hit "reset," generating an additional, future response point. With the last "reset" to a 2026 date, the outgoing Mayor punted the ultimate responsibility for release of the City's September 11th archive to Mayor Mamdani.

These years of delay are particularly difficult to understand when one considers the quality of the “response,” described above. Did it really take your team thirty (30) months to hop onto Google and search for “EPA,” “World Trade Center,” and “New York City”?

New York State Supreme Court condemns this precise type of conduct, even when the extensions span a far shorter period of time. This is particularly so when the subject matter, as here, is of great public importance, the request is specific, and the data is known to be stored and organized. See, e.g., Empire Ctr. for Pub. Policy v. New York State Dep't of Health, 150 N.Y.S.3d 497, 499 (N.Y. Sup. Ct. 2021)(*Two-month* delay caused by New York State’s self-extension deemed unreasonable as petitioner’s request for Covid-19 nursing home death records was narrowly tailored and data was organized/compiled, previously)

If records are clearly available to the public under the Freedom of Information Law, or if they are readily retrievable, there may be no basis for a lengthy delay in disclosure. (**Exhibit 4:** N.Y. State Commission on Open Government, 1998 Advisory Opinion 10833)

Although FOIL does allow a government agency to extend response times, unilaterally, this privilege is limited to appropriate circumstances, absent here. The postponements are not to be indefinite, and the Mayor’s Office abused the extensions in this instance.

Accordingly, it has long been advised that when an agency is unable to deny or provide access to records within five business days, it must provide a written response indicating either that it will respond within the next twenty business days, or that it is unable to respond until a certain date, providing both the date and the reasons for requiring additional time. Although we recognize that there are occasions when an agency will require an extension of time beyond that which it initially predicted, ***there is no provision in the statute for repeated extensions.*** (**Exhibit 5:** N.Y. State Commission on Open Government, 2016 Advisory Opinion 19372)(emphasis added)

In McKenna v. The City of New York, the New York Supreme Court deemed unreasonable the City’s six (6) self-granted extensions. Unlike the Mayor’s Office, granting itself **2.5 years** to respond (through 10 extensions), the City in McKenna sought only **six months** of additional time. Yet, even that shorter period, one-fifth of the time at issue in this matter, violated FOIL. (**Exhibit 8:** 2024 NY Slip Op 33137(U), August 26, 2024) *“From March 2, 2022, through September 21, 2022, Respondent extended the expected response date six times.”*)

As *Reinvent Albany* reported earlier in 2025, New York City responds to 84% of FOIL requests, annually. That 16% are not responded to within one year is deemed a failure by the non-profit government watchdog. ([Report: New York City Government Flouting Freedom of Information Law - Reinvent Albany](#)) What would *Reinvent Albany* make of a government records request, concerning a matter of paramount public interest, taking 2.5 years to address?

VI. Indicia that the Mayor’s Office Played a Leading Role in the September 11th Response and Organized the Requested Information more than Two Decades Ago

The September 11th attack and collapse of the World Trade Center remain the most significant events in New York City history. We do not accept that the Mayor’s Office and Law Department cannot find responsive records, as more fully detailed, above.

As is widely known, the Mayor’s Office played a lead role in the response. [See, e.g., In re World Trade Ctr. Disaster Site Litig., 456 F. Supp. 2d 520, 527, 2006 WL 2948819 (S.D.N.Y. 2006), *aff’d in part*, appeal dismissed in part, 521 F.3d 169, 2008 WL 783386 (2d Cir. 2008): “*the Mayor of the City of New York... issued a Mayoral Order on September 11, 2001, proclaiming a local state of emergency based on the danger to public safety posed by the attacks*” and directing local agencies “*to take whatever steps are necessary to preserve the public safety and...to protect the security, well-being and health of the residents of the City*”]

The Mayor, too, worked to secure liability protections for the City in the aftermath. As a United States District Court observed, “*a November 1, 2001 letter sent by then-Mayor Giuliani to members of the New York congressional delegation urg[ed] adoption of amendments that would limit the City’s liability. ... the proposed amendment would alleviate only “ ‘part’ ” of “ ‘the City’s potential liability exposure.’ ”* In re WTC Disaster Site, 414 F.3d 352, 379, 2005 WL 1649041 (2d Cir. 2005)

Such work generated documents responsive to our FOIL requests. (**Exhibits 1 and 2**)

Deputy Mayor Robert Harding received a memo entitled Legislative Alternatives to Limit the City’s Liability relating to 9/11/01. According to the memo, as of Fall 2001, “*the Law Department was estimating 35,000 potential 9/11 plaintiffs against the City...the memo urged the city to push Congress to create a fund to cover the City’s liability similar to the 9/11 Victim Compensation Fund it had just created for the airline industry.*” (**Exhibit 9: Grand Illusion**, Barret and Collins, 2006, at p. 259, chapter 8, footnote 13)

The Harding memo confirms that City agencies performed risk assessments in 2001, projecting thousands of toxic exposure claims. The Harding memo summarizes the conclusions of other City officials. Both Deputy Mayor Harding and the memo’s author appear to be recipients of information, performing no evaluation themselves. Risk assessments and liability analyses informed the memo’s contents, and we sought these materials in our FOIL request.

Although referenced by the New York Times in May 2007, and in a 2007 book (**Exhibit 9**), the Harding memo remained undisclosed for a quarter of a century. The Harding memo attracted widespread attention after the City refused to release it to the New York Congressional delegation. (**Exhibit 7: 2021-2024 requests of Reps. Maloney, Nadler and Goldman to Mayors de Blasio and Adams for Harding memo and other information**)

Petitioners obtained this Mayor’s Office record, privately, in late January 2026 from the Dolph Briscoe Center for American History, an archive at the University of Texas. Locating the

Harding memo involved searching three hundred (300) boxes of records from the Estate of Wayne Barrett, the noted investigative journalist. Written in October 2001, the Harding memo confirms the Mayor's Office anticipated tens of thousands of lawsuits for toxic exposures from the World Trade Center site. (Exhibit 16)

In those early days, the City "flagged" its air quality advisories as a liability concern.

"Potential lawsuits against the City include health advisories causing individuals to return to the area too soon (causing toxic exposure)" (Exhibit 16)

City Hall sought to limit liability for its air safety messaging. City officials pursued "Legislative alternatives to limit the City's liability relating to 9/11/01," the title of the Harding memo. (Exhibit 16) Securing this protection involved lobbying Washington, D.C.

And yet, after identifying this liability concern, the City's public proclamations of air safety continued. From September 12, 2001 to February 2002, the City assured New Yorkers with a single message: the air in lower Manhattan was "***safe and acceptable.***" (Exhibit 20: compilation of City assurances, September 2001 through February 2002)

For example:

September 12, 2001:

Mayor's Office Conference

"The air is safe as far as we can tell of chemical and biological agents."

"Air quality as far as we can tell ... is not dangerous"

"Asbestos is in the air as long as you are not in the epicenter, it is not at dangerous levels."

"We're monitoring air pollutants. . ." "So far it is safe"

September 16, 2001:

New York City Department of Health

"Based on the asbestos test results received thus far, the general public's risk for any short- or long-term adverse health effects are very low."

September 28, 2001:

Mayor's Office

"Although they occasionally will have an isolated reading with an unacceptable level of asbestos ... it's very occasional and very isolated."

The air quality is safe and acceptable."

October 5, 2001:

New York City Department of Health

“As work continues at the disaster site, the presence of dust and smoke odor in the downtown area has been of understandable concern to residents. However... levels of particulate matter being detected are below the level of public health concern and do not pose long-term health risks to the general public.”

February 11, 2002:

New York City Department of Health

The Health Department reviews the numerous air quality, debris sample results and personal air monitoring tests being conducted by various agencies. The data from air quality tests thus far have been, in general, reassuring. None of the test results done to date would indicate long-term health impacts.” (Exhibit 20)

The Harding memo (**Exhibit 16**) reveals other liabilities identified inside City Hall. Excerpts are reprinted, below:

**Legislative Alternatives to Limit the
City's Liability Relating to 9/11/01**

According to the Law Department, there are approximately 35,000 potential plaintiffs as a result of the events of September 11 and it is estimate (sic) that 10,000 would file a claim.

A major concern is that if these cases make it to court, the judges and juries will be biased in favor of plaintiffs (even though the City seems to have a strong defense) and therefore award substantial damages to compensate individuals for their loss.

The following is a list of some of the types of potential lawsuits against the City.

Aftermath

- **Health advisories caused individuals either to return to the area too soon (causing toxic exposure or emotional harm) or too late (causing economic hardship)**
- **Rescue workers were provided with faulty equipment or no equipment (i.e., respirators)**
- **Unsafe workplace (OSHA, FEMA, Labor Law)**

- **Inadequate clean up**

Creation of a Congressional Fund for the Victims

One way to limit the City's liability is for Congress to create a congressional fund that mirrors the fund created for the airline industry. Congress, in the Airline bailout, created the September 11th Victim Compensation Fund of 2001 "that will provide compensation to any individual (or relatives of a deceased individual) who was physically injured or killed as a result of the terrorist-related aircraft crashes of September 11, 2001.

Federal Indemnification

... the City could request indemnification by the Federal government for all liability claims arising from the events of 9/11/01. This form of relief could also assist the City in the long-term as well by including toxic tort cases that might arise in the next few decades.

As the City continued its campaign of air safety messaging, behind the scenes it lobbied the White House and Congress, seeking the protection outlined in the Harding memo for, among other things, its air quality proclamations. Ironically, the City fretted such advocacy, with potential explication of its liability concerns, would worsen matters. "*By advocating...we may be inviting litigation.*" (**Exhibit 16**) In response to quiet lobbying, the federal government conferred limitations of liability to the City on November 19, 2001. (**Exhibit 21**: Amendment to the Air Transportation Safety Systems and Stabilization Act of 2001)

Petitioners' copy of the Harding memo (**Exhibit 16**) bears multiple indicia of reliability and authenticity. First, its contents track the references made by Wayne Barrett in his 2007 book, Grand Illusion (**Exhibit 9**: excerpts) and in The New York Times article. ("*Ground Zero Illnesses Clouding Giuliani's Legacy*," May 14, 2007) Second, the Harding memo marks a first recognition of the City's liability for respiratory protection shortages for first responders. Publicly, however, the City would contest this issue for years. 2010 legal filings demonstrated that the Fire Department of New York had only 600 air purifying respirators for its 11,000 members on the morning of September 11.th (Case 1:21-mc-00100-AKH, United States District Court for the Southern District of New York, Document #1766-Filed 02/16/2010)

As the 2001 Harding memo anticipates, too, tens of thousands would be sickened by World Trade Center toxic exposure. This early internal prediction conflicts with public statements from City Hall, made years later, downplaying any connection between exposure and illness. Five years after September 11th, the Mayor dismissed a "*health study of the thousands of workers at Ground Zero*" showing "*many with chronic respiratory ailment*," explaining:

the health study does not prove a direct link to conditions at the site:

"There is no way to tell for sure ... and you have to be very careful. If I say I've got something because of this, it's just not the way science works." (Exhibit 20 at pp. 32-33)

In our Article 78 proceeding against DEP, the Law Department did not contest the authenticity of our copy of the Harding memo. (See, NYSCEF#63; Chevat v. DEP, link above) This tacit admission was, most likely, the result of a comparison with the original Harding memo. The existence of the Harding memo demonstrates, with near certainty, that the Law Department and Mayor's Office continue to retain documents responsive to our FOIL requests, including the bases for the risk assessments summarized within this explosive document.

For these reasons, our FOIL request sought information concerning the City's lobbying and legislative efforts to eliminate/reduce its potential liabilities for toxic exposure claims, including the "Harding memo" and its bases, along with City communications with federal agencies, Congress, and the White House. (Exhibits 1 and 2)

The Mayor's myriad pronouncements as to air quality and safety in lower Manhattan are well-known to anyone who heard or read them in September 2001. We sought the bases for these proclamations and the decision to reopen public schools and businesses, undertaken simultaneously with the City's aggressive lobbying for protection from lawsuits arising from exposure to the toxic air, downtown. (Exhibits 1 and 2)

We demonstrate that the requested materials remain readily available.

The Mayor's Office, like all City agencies and departments received the special 2002 directive from the City Law Department's World Trade Center Unit. (Exhibit 6)

In accordance with the Law Department's directive, the Mayor's Office would have compiled and organized World Trade Center documents. Thereafter, upon scanning by the Law Department, the documents were returned with the admonition for the Mayor's Office to preserve them, indefinitely.

There is further and more contemporaneous indication that the documents exist, are organized, accessible and easily provided. The Mayor's Office cannot argue that it no longer has the documents or that the documents do not exist, the precise tactic employed by the City DEP to fight our FOIL request as to it.

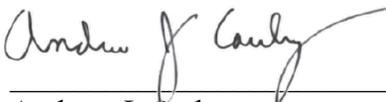
Communications with New York's Congressional delegation, dating from 2021, also confirm that the requested materials are catalogued and set aside. Annexed as **Exhibit 7** are a series of letters between Honorable Jerrold Nadler, Honorable Dan Goldman, and Honorable Caroline Maloney and the Office of the Mayor. Since 2021, the Representatives have sought previously unreleased documents, from City agencies, concerning the response to the September 11th attacks, writing and meeting with the Mayor's Office in this effort. To date, the City has not responded in any meaningful way to these requests from the elected officials. On March 22, 2023, *Mayor Adams wrote to the members of Congress, acknowledging that such previously unreleased documents existed, but advising that they would not be disclosed.* The Mayor cited

“litigation risks” as a barrier. The Mayor requested both federal funding and additional federal protections for the City before the documents would be released. *Id.* At no point in the correspondence to the Congressional delegation did City Hall cite a specific FOIL exemption enabling it to withhold the documents. Further, “litigation risks” are not recognized as a basis to deny Petitioners’ FOIL request or those of members of Congress.

Accordingly, it is clear that the Law Department and Mayor’s Office are not only aware of the existence of specific and responsive records, they have set these records aside, siloed them, and continue to resist their disclosure.

In closing, we request that the February 27, 2026 FOIL response be revised, immediately, with full disclosure of the requested records. We demonstrate: that no diligent search was performed for the records; that the requested records exist; and the records are searchable. The respondents provide no basis under FOIL to withhold the requested information.

Very truly yours,



Andrew J. Carboy



Matthew McCauley

EXHIBIT 1

Law Offices of Andrew J. Carboy LLC

One Liberty Plaza, Floor 23
New York, New York 10006
(212) 520-7565

Turken Heath & McCauley LLP

84 Business Park Drive, Suite 307
Armonk, New York 10504
(914) 363-6355

September 8, 2023

FREEDOM OF INFORMATION LAW REQUEST TO CITY OF NEW YORK

By FOIL Portal:

New York City Department of Design and Construction;
New York City Department of Environmental Protection;
New York City Department of Health;
Office of the Mayor;
New York City Law Department;
New York City Office of Emergency Management; and
New York City Council

By U.S. Mail and Fax/Email:

New York City Federal Affairs Office
Attn: Crystal Price, Director
601 New Jersey Avenue, Suite 410
Washington D.C. 20001
Fax: 202-624-5926

Mayor's Office of Intergovernmental Affairs
Attn: Roberto Perez, Director
City Hall, 2nd Floor
New York, New York 10007
Fax: 212-788-9711

City Council
Danielle Barbato, FOIL Officer
Office of the General Counsel
250 Broadway, 15th Floor
New York, New York 10007
dbarbato@council.nyc.gov

We, Benjamin Chevat, Director of 9/11 Health Watch; Karen Klingon, Executrix of the Estate of Robert Klingon (resident of lower Manhattan); Yvonne Baisley, Executrix of the Estate of FDNY Firefighter Robert Fitzgibbon; Phil Alvarez on behalf of his brother,

NYPD Detective Luis G. Alvarez, deceased; and Charlotte Berwind, Executrix of the Estate of volunteer firefighter Charles E. Flickinger, Jr. .

through our attorneys, Law Offices of Andrew J. Carboy LLC and Turken Heath & McCauley LLP, seek immediate release of the following public information through the New York Freedom of Information Law:

1. October 2001 memorandum from Deputy Mayor Robert M. Harding referenced in May 14, 2017 New York Times article entitled, “*Ground Zero Illnesses Clouding Giuliani’s Legacy.*” (“Harding memo”)
2. Underlying documents, studies, reports, assessments, memoranda, factual bases and other written information that informed the Harding memo’s estimate or projection of anticipated future claims from WTC toxic exposure.
3. All documents setting forth the names and titles of recipients of the Harding memo in 2001 and 2002.
4. All documents setting forth the manner in which the Harding memo was communicated and the reasons for its communication in 2001 and 2002 (e.g., litigation; lobbying; inter-government communication; intra-government communication; Freedom of Information request).
5. With respect to the following provision of the *Air Transportation Safety and System Stabilization Act of 2001*, Pub. L. No. 107-42, 115 Stat. 230 (2001):

(3) Limitations on liability for New York City.--Liability for all claims, whether for compensatory or punitive damages or for contribution or indemnity arising from the terrorist-related aircraft crashes of September 11, 2001, against the City of New York shall not exceed the greater of the city's insurance coverage or \$350,000,000. 49 U.S.C.A. § 40101

- a. Written communications, dating from September, October and November 2001, such as correspondence, email, and memoranda, with all attachments, concerning limitations on liability for the City of New York (“City”), to the following individuals and offices:
 - i. The White House and the Office of the Executive;
 - ii. Any United States Senator and their office;
 - iii. Any Committee of the United States Senate and/or its staff;

- iv. Any member of the U.S. House of Representatives or their staff;
 - v. The United States Justice Department; and
 - vi. United States Environmental Protection Agency.
- b. All background and briefing materials, including assessments, surveys, studies, projections, risk projections, environmental testing data, and toxicological data, including from City agencies provided to Mayor Rudolph W. Giuliani in September, October and November 2001, and Mayor-elect Michael R. Bloomberg, in November 2001, with respect to proposed limitations on liability for the City in connection with efforts to secure such limitations.
 - c. Documents setting forth the names of consultants and consulting firms, lobbyists and lobbying firms, that worked with the City in the effort to secure the limitations on liability, referenced above.
 - d. Documents setting forth the amount of compensation issued/paid by the City to the consultants and consulting firms, lobbyists and lobbying firms identified in response to request c., above.
 - e. Documents setting forth: the number of meetings (taking place in September, October and November 2001), dates of meetings, location of meetings, identity of those in attendance, concerning the efforts to secure the limitations on liability, set forth above, along with summaries of meetings and copies of the written materials reviewed at each meeting.
6. With respect to daily public briefings held by Mayor Rudolph W. Giuliani (“Mayor”) in September, October and November 2001:
- a. Written materials for the substance of all of the briefings, provided in advance to the Mayor, such as texts, talking points, slide decks, graphs, and charts;
 - b. All draft briefings; and
 - c. All commentary provided to the Mayor about proposed briefings, and identifying the sender and/or commentator.
7. With respect to discussions, deliberations and/or debate concerning recent (2018-2023) requests for release of all City September 11th/World Trade Center disaster records to the public (e.g., February 16, 2023 letter request of Reps. Nadler and Goldman):
- a. All writings setting forth reasons as to why the records should not be released;

- b. All writings setting forth reasons as to why the records should be released; and
 - c. All assessments as to the “litigation risks” posed by release of some or all of the records.
8. Any memos, communications with respect to the reporting of New York Daily News columnist Juan Gonzalez from September, October, November or December of 2001.
 9. Inventories, pre-dating September 11, 2001, of hazardous substances contained in WTC buildings, including but not limited to materials found in x-ray equipment, materials found in radiation oncology equipment, diesel fuel stored under WTC 7, polychlorinated biphenyls, asbestos, other radioactive materials, carcinogens, and materials known to have neurotoxic effects if released and/or subject to burning.
 10. All exercises, projections, estimates, simulations, analyses, studies and reports, whether obtained by, created by or created at the direction of your agency/department from February 26, 1993 through September 10, 2001 concerning: a terrorist attack or potential terrorist attack on the World Trade Center Complex, disaster and/or rescue responses to such an attack; hazards resulting from such an attack, including release of contaminants/toxins from such an attack, including those resulting from structure collapses; mitigation measures considered to reduce hazards posed by release of contaminants/toxins from such an attack, including those resulting from structure collapses; evacuation protocol for surrounding neighborhoods and other geographic locations potentially or actually affected by the release of contaminants; and air quality issues and potential problems resulting from such an attack, including those resulting from structure collapses.
 11. From February 26, 1993 through September 10, 2001: all exercises, simulations, directives, memoranda, reports and analyses concerning the aftermath of a potential terrorist attack on the World Trade Center, whether obtained by, created by or created at the direction of your agency/department.
 12. All communications to and from the Port Authority of New York and New Jersey, such as letters, memoranda, reports, status updates and other writings (be they paper or electronic) dating from February 26, 1993 through September 10, 2001, concerning: A) the removal of asbestos containing materials (“ACM”) from the World Trade Center; B) recommendations for removal of ACM from the World Trade Center; C) hazards posed by the presence of ACM in the World Trade Center in the event of a disaster, such as a terrorist attack; and D) the significance of the February 26, 1993 World Trade Center bombing with respect to efforts to remove ACM.
 13. All notes, memoranda and other writings created by the City Department of Design and Construction concerning information conveyed by the Port Authority of New York and New Jersey that subsequent to the 1993 World Trade Center bombing, a program to remove ACM

was initiated.

14. All notes, memoranda and other writings created by your agency/department concerning information conveyed by the Port Authority of New York and New Jersey that subsequent to the 1993 World Trade Center bombing, a program to remove ACM was initiated.
15. Documents setting forth the progress of efforts to remove ACM from the World Trade Center for the time period beginning February 26, 1993 and concluding on September 10, 2001.
16. Results of dust and air testing conducted outdoors and indoors at the World Trade Center between February 26, 1993 and August 1, 1993 whether conducted at the direction of your agency/department or obtained by your agency/department.
17. All communications, draft plans, draft directives, evaluations and assessments concerning the potential evacuation and duration of evacuation of neighborhoods in Brooklyn, New York following the collapse of the World Trade Center on September 11, 2001.
18. All communications, draft plans, draft directives, evaluations and assessments concerning the potential evacuation and duration of evacuation of neighborhoods in New York, New York following the collapse of the World Trade Center on September 11, 2001.
19. All communications between the City of New York, including the Law Department, the Mayor's Office, and other offices, and the World Trade Center Captive Insurance Company from 2017 to date, concerning:
 - a. Winding down and/or dissolution of the World Trade Center Captive Insurance Company;
 - b. The transfer of the funds held/invested by the World Trade Center Captive Insurance Company to the World Trade Center Health Program; and
 - c. Recommendations concerning possible dissolution of the World Trade Center Captive Insurance Company, whether supportive of dissolution or opposed to dissolution.
20. All communications to and from the Mayor's Office concerning future plans for the use of funds held/invested by the World Trade Center Captive Insurance Company in the event of a winding down or dissolution of the World Trade Center Captive Insurance Company.
21. All communications to and from the Law Department of the City of New York concerning future plans for the use of funds held/invested by the World Trade Center Captive Insurance

Company.

22. Draft legislation for additional federal protection of the City of New York from September 11th and World Trade Center-exposure related lawsuits, as referenced in the September 10, 2022 New York Post article entitled, “*NYC Refusing to Release 9/11 Records without Lawsuit Immunity.*”
23. From September 12, 2001 through April 2002, all communications to and from the City Department of Education from: A. The Mayor’s Office; and B. The Law Department of the City of New York concerning the reopening of public schools below Houston Street.
24. From September 12, 2001 through April 2002, all communications from the City of New York to the United States Department of Education concerning the reopening of public schools below Houston Street.
25. All records of protocols for testing and cleaning as well as clearance for occupation of each school below Houston Street from September 12, 2001 through April 2002.
26. As shared with, sent or delivered to the Mayor’s Office from September 11, 2001 through April 2002: all projections, estimates, and assessments as to the number of expected injuries resulting from exposure to toxins and products of combustion released from the World Trade Center Site.
27. As shared with, sent or delivered to the Law Department of the City of New York from September 11, 2001 through April 2002: all projections, estimates, and assessments as to the number of expected injuries resulting from exposure to toxins and products of combustion released from the World Trade Center Site.
28. As referenced in the letter of Mayor Eric Adams of March 22 , 2023 to the Hon. Jerrold Nadler and the Hon. Daniel Goldman, United States House of Representatives, documents, ***not publicly disclosed to date*** by the City of New York, concerning the collapse of the World Trade Center on September 11, 2001, including the release of toxins, and air or dust testing and reopening of schools. By letter to Mayor Adams, dated February 16, 2023, Representatives Nadler and Goldman sought

information in the City’s records pertaining to the earliest analyses of the toxins, dust, and fumes blanketing lower Manhattan and Brooklyn;

the Harding memo and “any correspondence that led to his writing and drafting of this memo”

internal notes or memos regarding the Department of Education’s decision to move kids and teachers back into schools in the frozen zone below Houston. We know that there were parents who expressed strong concerns and even protested this move. What were the deliberations in the DOE? What testing was done to determine the safety of the schools?

Any records, communications, or memos from the New York City Departments of Health and the Environmental Protection that address the scope and toxicity of the WTC plume and the dust, and the exposures New Yorkers experienced

Mayor Adams responded, in his letter of March 22, 2003, that the City would not release this information absent “*necessary federal legislation to make production of documents...legally feasible.*”

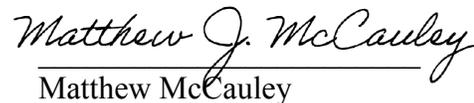
Apparently, notwithstanding its obligations under the Freedom of Information Law, the City will not produce these materials absent desired and undefined “protection” from future liability claims it apparently fears the documents will substantiate.

All of the materials requested in this letter are subject to production under the Freedom of Information Law regardless of whether the City obtains such additional federal protection. Fear of wrongdoing being exposed does not shield public documents from disclosure under New York State law. After more than two decades shrouded in secrecy, this public information must be released, now.

Very truly yours,



Andrew J. Carboy



Matthew McCauley

EXHIBIT 2

Law Offices of Andrew J. Carboy LLC

One Liberty Plaza, Floor 23
New York, New York 10006
(212) 520-7565

Turken Heath & McCauley LLP

84 Business Park Drive, Suite 307
Armonk, New York 10504
(914) 363-6355

September 7, 2025

By FOIL Portal:

Office of the Mayor

Re: Freedom of Information Request

2023-002-00733

Title: Records Concerning Preparedness for &
Response to WTC Collapse

Modification to this Request

Dear Sirs and Madams:

On September 8, 2023, Benjamin Chevat, Director of 9/11 Health Watch; Karen Klingon, Executrix of the Estate of Robert Klingon (resident of lower Manhattan); Yvonne Baisley, Executrix of the Estate of FDNY Firefighter Robert Fitzgibbon; Phil Alvarez on behalf of his brother, NYPD Detective Luis G. Alvarez, deceased; and Charlotte Berwind, Executrix of the Estate of volunteer firefighter Charles E. Flickinger, Jr. filed a Freedom of Information Law (“FOIL”) request with the Office of the Mayor.

The Office of the Mayor assigned the FOIL request identification number 2023-002-00733.

On August 19, 2025, we received the following email advisory concerning FOIL request # 2023-002-00733, entitled Records Concerning Preparedness for & Response to WTC Collapse, the latest in a series of extensions:

From: donotreply@records.nyc.gov <donotreply@records.nyc.gov>

Sent: Tuesday, August 19, 2025 5:14:33 PM

To: Andrew Carboy <acarboy@carboylaw.com>

Subject: [OpenRecords] Request FOIL-2023-002-00733 Extended

The Mayor's Office (OOM) has **extended** the time to respond to your FOIL request [FOIL-2023-002-00733](#) for the following reasons:

You can expect a response on or about Friday, November 28, 2025.

Additional Information:

Due to the volume of requests that we have received, we are extending the due date on this request.

Please visit [FOIL-2023-002-00733](https://www.foia.gov/2023-002-00733) to view additional information and take any necessary action.

Now, the requesting parties hereby modify/amend FOIL request # 2023-002-00733.

As modified/amended, we withdraw requests 3, 4, 5b. and 6 through 28. We seek responses to the following requests, only (original items at request numbers 1, 2 and 5a, c, d, and e):

1. October 2001 memorandum from Deputy Mayor Robert M. Harding referenced in May 14, 2017 New York Times article entitled, “*Ground Zero Illnesses Clouding Giuliani’s Legacy.*” (“Harding memo”)

2. Underlying documents, studies, reports, assessments, memoranda, factual bases and other written information that informed the Harding memo’s estimate or projection of anticipated future claims from WTC toxic exposure.

5. With respect to the following provision of the *Air Transportation Safety and System Stabilization Act of 2001*, Pub. L. No. 107-42, 115 Stat. 230 (2001): **(3) Limitations on liability for New York City.**--*Liability for all claims, whether for compensatory or punitive damages or for contribution or indemnity arising from the terrorist-related aircraft crashes of September 11, 2001, against the City of New York shall not exceed the greater of the city's insurance coverage or \$350,000,000. 49 U.S.C.A. § 40101*

a. Written communications, dating from September, October and November 2001, such as correspondence, email, and memoranda, with all attachments, concerning limitations on liability for the City of New York (“City”), to the following individuals and offices:

i. The White House and the Office of the Executive;

ii. Any United States Senator and their office;

iii. Any Committee of the United States Senate and/or its staff;

iv. Any member of the U.S. House of Representatives or their staff;

v. The United States Justice Department; and

vi. United States Environmental Protection Agency.

c. Documents setting forth the names of consultants and consulting firms, lobbyists and lobbying firms, that worked with the City in the effort to secure the limitations on liability, referenced above.

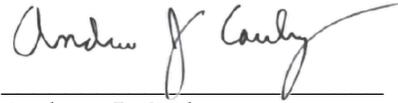
d. Documents setting forth the amount of compensation issued/paid by the City to the consultants and consulting firms, lobbyists and lobbying firms identified in response to request c., above.

e. Documents setting forth: the number of meetings (taking place in September, October and November 2001), dates of meetings, location of meetings, identity of those in attendance, concerning the efforts to secure the limitations on liability, set forth above,

along with summaries of meetings and copies of the written materials reviewed at each meeting.

Requests numbered 3, 4, 5b. and 6 through 28 are hereby withdrawn.

Very truly yours,

A handwritten signature in cursive script that reads "Andrew J. Carboy". The signature is written in black ink and is positioned above a horizontal line.

Andrew J. Carboy

Matthew McCauley

Matthew McCauley



(/)

FOIL-2023-002-00733 ⓘ

Title:

Records Concerning Preparedness for & Response to WTC Collapse

Open

Mayor's Office (OOM)

Due Date:

11/28/2025

Contact the Agency

Responses ⓘ

1

EXTENSION

Due to the volume of requests that we have received, we are extending the due date ...

Monday, 05/12/2025 at 2:34 PM

2

EXTENSION

Due to the volume of requests that we have received, we are extending the due date...

Tuesday, 02/18/2025 at 10:04 AM

3

EXTENSION

Due to the volume of requests that we have received, we are extending the due date ...

Monday, 11/18/2024 at 2:45 PM

4

EXTENSION

Due to the volume of requests that we have received, we are extending the due date ...
Tuesday, 08/20/2024 at 2:54 PM

5

EXTENSION

Due to the volume of requests that we have received, we are extending the due date ...
Monday, 06/24/2024 at 10:18 AM



Directory of City Agencies (<http://www1.nyc.gov/nyc-resources/agencies.page>)

Contact NYC Government (<http://www1.nyc.gov/home/contact-us.page>)

City Employees (<https://a127-ess.nyc.gov>)

Notify NYC (<http://www.nyc.gov/notifynyc>)

CityStore (<http://a856-citystore.nyc.gov/>)

Stay Connected (<http://www1.nyc.gov/connect/social-media.page>)

NYC Mobile Apps (<http://www1.nyc.gov/connect/applications.page>)

Maps (<http://www1.nyc.gov/nyc-resources/nyc-maps.page>)

Resident Toolkit (<http://www1.nyc.gov/nyc-resources/resident-toolkit.page>)

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(/)

Your request has been submitted! ✕

You can expect an acknowledgment from the City of New York within 5 business days. The agency will use the contact information you provided.

All messages from the City of New York and/or the information and documents you requested will be posted to this page.

FOIL-2025-002-00839 ⓘ

Title:

Under Review

Open

Mayor's Office (OOM)

Acknowledgment

Due Date:

09/12/2025

Contact the Agency

Responses ⓘ

The agency is working on a response.

Directory of City Agencies (<http://www1.nyc.gov/nyc-resources/agencies.page>)

Contact NYC Government (<http://www1.nyc.gov/home/contact-us.page>)

City Employees (<https://a127-ess.nyc.gov>)

Notify NYC (<http://www.nyc.gov/notifynyc>)

CityStore (<http://a856-citystore.nyc.gov/>)

Stay Connected (<http://www1.nyc.gov/connect/social-media.page>)

NYC Mobile Apps (<http://www1.nyc.gov/connect/applications.page>)

Maps (<http://www1.nyc.gov/nyc-resources/nyc-maps.page>)

Resident Toolkit (<http://www1.nyc.gov/nyc-resources/resident-toolkit.page>)

Search

of-use.page).

EXHIBIT 3

Tenth (10) Extension Granted By Mayor's Office to Itself

Extension #10

From: donotreply@records.nyc.gov <donotreply@records.nyc.gov>

Sent: Monday, December 1, 2025 1:20:16 PM

To: Andrew Carboy <acarboy@carboylaw.com>

Subject: [OpenRecords] Request FOIL-2023-002-00733 Extended

The Mayor's Office (OOM) has **extended** the time to respond to your FOIL request [FOIL-2023-002-00733](#) for the following reasons:

You can expect a response on or about Thursday, March 19, 2026.

Additional Information:

Due to the volume of requests that we have received, we are extending the due date on this request.

Please visit [FOIL-2023-002-00733](#) to view additional information and take any necessary action.

Extensions #1 through 9 appear, below:



Select Language

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FOIL-2023-002-00733

Title:

Records Concerning Preparedness for & Response to WTC Collapse

Open

Mayor's Office (OOM)

Due Date:
03/19/2026

[Contact the Agency](#)

Responses

1	EXTENSION	Due to the volume of requests that we have received, we ...	Tuesday, 08/19/2025 at 5:14 PM
2	EXTENSION	Due to the volume of requests that we have received, we ...	Monday, 05/12/2025 at 2:34 PM
3	EXTENSION	Due to the volume of requests that we have received, we ...	Tuesday, 02/18/2025 at 10:04 AM
4	EXTENSION	Due to the volume of requests that we have received, we ...	Monday, 11/18/2024 at 2:45 PM
5	EXTENSION	Due to the volume of requests that we have received, we ...	Tuesday, 08/20/2024 at 2:54 PM





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FOIL-2023-002-00733 ?

Title:

Records Concerning Preparedness for & Response to WTC Collapse

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Due Date:
03/19/2026

[Contact the Agency](#)

Responses ?

6	EXTENSION	Due to the volume of requests that we have received, we ...	Monday, 06/24/2024 at 10:18 AM
7	EXTENSION	Due to the volume of requests that we have received, we ...	Thursday, 03/28/2024 at 1:31 PM
8	EXTENSION	Due to the volume of requests that we have received, we ...	Tuesday, 01/02/2024 at 10:38 AM
9	EXTENSION	Due to the volume of requests that we have received, we ...	Wednesday, 11/01/2023 at 1:43 PM
10	ACKNOWLEDGMENT		Friday, 09/08/2023 at 10:03 AM



0. VIEW ACKNOWLEDGMENT

Expected date of completion: **Monday, 10/30/2023 at 5:00 PM**

1. VIEW EXTENSION

Due date changed to: **Friday, 12/29/2023 at 5:00 PM**

Due to the volume of requests that we have received, we are extending the due date on this request.

2. VIEW EXTENSION

Due date changed to: **Wednesday, 03/27/2024 at 5:00 PM**

Due to the volume of requests that we have received, we are extending the due date on this request.

3. VIEW EXTENSION

Due date changed to: **Friday, 06/21/2024 at 5:00 PM**

Due to the volume of requests that we have received, we are extending the due date on this request.

4. VIEW EXTENSION

Due date changed to: **Monday, 08/19/2024 at 5:00 PM**

Due to the volume of requests that we have received, we are extending the due date on this request.

5. VIEW EXTENSION

Due date changed to: **Friday, 11/15/2024 at 5:00 PM**

Due to the volume of requests that we have received, we are extending the due date on this request.

6. VIEW EXTENSION

Due date changed to: **Thursday, 02/13/2025 at 5:00 PM**

Due to the volume of requests that we have received, we are extending the due date on this request.

7. VIEW EXTENSION

Due date changed to: **Friday, 05/09/2025 at 5:00 PM**

Due to the volume of requests that we have received, we are extending the due date on this request.

8. VIEW EXTENSION

Due date changed to: **Thursday, 08/14/2025 at 5:00 PM**

Due to the volume of requests that we have received, we are extending the due date on this request.

9. VIEW EXTENSION

Due date changed to: **Friday, 11/28/2025 at 5:00 PM**

Due to the volume of requests that we have received, we are extending the due date on this request.

10. VIEW EXTENSION

From: donotreply@records.nyc.gov <donotreply@records.nyc.gov>

Sent: Monday, December 1, 2025 1:20:16 PM

To: Andrew Carboy <acarboy@carboylaw.com>

Subject: [OpenRecords] Request FOIL-2023-002-00733 Extended

The Mayor's Office (OOM) has **extended** the time to respond to your FOIL request [FOIL-2023-002-00733](#) for the following reasons:

You can expect a response on or about Thursday, March 19, 2026.

Additional Information:

Due to the volume of requests that we have received, we are extending the due date on this request.

Please visit [FOIL-2023-002-00733](#) to view additional information and take any necessary action

EXHIBIT 4



**State of New York
Department of State
Committee on Open Government**

One Commerce Plaza
99 Washington Ave.
Albany, New York 12231
(518) 474-2518
Fax (518) 474-1927
<http://www.dos.ny.gov/coog/>

May 28, 1998

Mr. Jack White
RD2, Box 400
Poughquag, NY 12570

The staff of the Committee on Open Government is authorized to issue advisory opinions. The ensuing staff advisory opinion is based solely upon the information presented in your correspondence.

Dear Mr. White:

I have received your letters of May 26 and April 28 and apologize for sending you a response erroneously that should have been sent to a different person.

In your original letter, you referred to delays that you are experiencing in your attempts to obtain records from the Town of Beekman. You have asked whether "not having time" represents a "legitimate excuse" for delaying disclosure.

In this regard, the Freedom of Information Law provides direction concerning the time and manner in which agencies must respond to requests. Specifically, §89(3) of the Freedom of Information Law states in part that:

"Each entity subject to the provisions of this article, within five business days of the receipt of a written request for a record reasonably described, shall make such record available to the person requesting it, deny such request in writing or furnish a written acknowledgement of the receipt of such request and a statement of the approximate date when such request will be granted or denied..."

While an agency must grant access to records, deny access or acknowledge the receipt of a request within five business days, when such acknowledgement is given, there is no precise time period within which an agency must grant or deny access to records. The time needed to do so may be dependent upon the volume of a request, the possibility that other requests have been made, the necessity to conduct legal research, the search and retrieval techniques used to locate the records and the like. In short, when an agency acknowledges the receipt of a request because more than five business days may be needed to grant or deny a request, so long as it provides an approximate date indicating when the request will be granted or denied, and that date is reasonable in view of the attendant circumstances, I believe that the agency would be acting in compliance with law.

Notwithstanding the foregoing, in my view, every law must be implemented in a manner that gives reasonable effect to its intent, and I point out that in its statement of legislative intent, §84 of the Freedom of Information Law states that "it is incumbent upon the state and its localities to extend public accountability wherever and whenever feasible." Therefore, if records are clearly available to the public under the Freedom of Information

Law, or if they are readily retrievable, there may be no basis for a lengthy delay in disclosure. As the Court of Appeals has asserted:

"...the successful implementation of the policies motivating the enactment of the Freedom of Information Law centers on goals as broad as the achievement of a more informed electorate and a more responsible and responsive officialdom. By their very nature such objectives cannot hope to be attained unless the measures taken to bring them about permeate the body politic to a point where they become the rule rather than the exception. The phrase 'public accountability wherever and whenever feasible' therefore merely punctuates with explicitness what in any event is implicit" [Westchester News v. Kimball, 50 NY2d 575, 579 (1980)].

Further, in my opinion, if, as a matter of practice or policy, an agency acknowledges the receipt of requests and indicates in every instance that it will determine to grant or deny access to records "within thirty days" or some other particular period, following the date of acknowledgement, such a practice or policy would be contrary to the thrust of the Freedom of Information Law. If a request is voluminous and a significant amount of time is needed to locate records and review them to determine rights of access, thirty days, in view of those and perhaps the other kinds of factors mentioned earlier, might be reasonable. On the other hand, if a record or report is clearly public and can be found easily, there would appear to be no rational basis for delaying disclosure for as much as thirty days. In a case in which it was found that an agency's "actions demonstrate an utter disregard for compliance set by FOIL", it was held that "[t]he records finally produced were not so voluminous as to justify any extension of time, much less an extension beyond that allowed by statute, or no response to appeals at all" (Inner City Press/Community on the Move, Inc. v. New York City Department of Housing Preservation and Development, Supreme Court, New York County, November 9, 1993).

Additionally, I note that it has been held that an agency's contention that a "shortage of manpower" was not a defense to a denial of access, for a refusal to disclose on that basis would "thwart the very purpose of the Freedom of Information Law" [see United Federation of Teachers v. NYC Health & Hospitals Corp, 428 NYS 2d 823 (1980)].

Lastly, I note that I will be speaking at the Beekman Town Hall on June 8 at 7:30 p.m. I will attempt to clarify open government laws and respond to any questions on the subject during the event.

I hope to see you there and that I have been of assistance.

Once again, please accept my apologies for the error.

Sincerely,

Robert J. Freeman
Executive Director

RJF:jm

cc: Town Board

FOIL-AO-f10833
10833

EXHIBIT 5



**State of New York
Department of State
Committee on Open Government**

One Commerce Plaza
99 Washington Ave.
Albany, New York 12231
(518) 474-2518
Fax (518) 474-1927
<https://www.dos.ny.gov/coog/>

February 5, 2016

FOIL-AO-19372

The staff of the Committee on Open Government is authorized to issue advisory opinions. The ensuing staff advisory opinion is based solely upon the information presented in your correspondence, except as otherwise indicated.

Dear :

We are in receipt of a copy of a Freedom of Information Law (FOIL) appeal determination rendered by your agency in response to an October 28, 2015 FOIL request submitted by Dina Sforza of Newsday. In our opinion, your agency's denial of Ms. Sforza's appeal as untimely is inconsistent with the law.

By way of background, FOIL provides direction concerning the time and manner in which agencies must respond to requests. Specifically, §89(3)(a) of the Freedom of Information Law states in part that:

"Each entity subject to the provisions of this article, within five business days of the receipt of a written request for a record reasonably described, shall make such record available to the person requesting it, deny such request in writing or furnish a written acknowledgement of the receipt of such request and a statement of the approximate date, which shall be reasonable under the circumstances of the request, when such request will be granted or denied.... If an agency determines to grant a request in whole or in part, and if circumstances prevent disclosure to the person requesting the record or records within twenty business days from the date of the acknowledgement of the receipt of the request, the agency shall state, in writing, both the reason for the inability to grant the request within twenty business days and a date certain within a reasonable period, depending on the circumstances, when the request will be granted in whole or in part."

Accordingly, it has long been advised that when an agency is unable to deny or provide access to records within five business days, it must provide a written response indicating either that it will respond within the next twenty business days, or that it is unable to respond until a certain date, providing both the date and the reasons for requiring additional time. Although we recognize that there are occasions when an agency will require an extension of time beyond that which it initially predicted, there is no provision in the statute for repeated extensions. The agency must, however, indicate the date by which it will respond, based on what is reasonable in consideration of attendant circumstances.

When an agency fails to comply with the time limits for response as described in §89(3)(a), or denies access to records in writing, FOIL permits the applicant to file an administrative appeal, and, if the agency denies the appeal, that person may seek judicial review pursuant to Article 78 of the Civil Practice Law and Rules. We note that the Legislature chose to distinguish the two types of denials in §89(4)(a), as follows:

"...any person denied access to a record may within thirty days appeal in writing such denial to the head, chief executive or governing body of the entity, or the person therefor designated by such head, chief executive, or governing body, who shall within ten business days of the receipt of such appeal fully explain in writing to the person requesting the record the reasons for further denial, or provide access to the record sought"

and further,

"Failure by an agency to conform to the provisions of subdivision three of this section shall constitute a denial."

Because it distinguishes between the two types of denials, one in writing and the other due to a failure to respond in a timely manner, it is our opinion that the Legislature intended that there may be two types of appeals: one, from a denial of access in writing based on an exception to rights of access, and the other, from a constructive denial of access as a result of the agency's failure to comply with the time limits for response required by §89(3)(a).

It is my understanding, based on the language of agency's appeal determination, that on October 28, 2015 Ms. Sforza submitted FOIL requests to Suffolk County for records pertaining to two specific Suffolk County employees. On November 2, 2015, the records access officer for the Suffolk County Police Department acknowledged one of the requests and advised that there "may be a delay of approximately (30) days associated with the satisfaction of your request." Thirty days from November 2, 2015 passed and the agency failed to grant or deny access to the requested records and failed to notify Ms. Sforza that it required an extension of time in order to respond. On January 22, 2016, Ms. Sforza appealed the agency's constructive denial. In your agency's February 3, 2016 appeal determination, you assert that Ms. Sforza's appeal was untimely and thus denied because she did not appeal within 30 days of the date your agency indicated it would respond in its November 2, 2015 acknowledgement letter. As mentioned above, it is our opinion that this denial of the appeal as untimely is inconsistent with the law.

In situations where an agency constructively denies a FOIL request by failing to respond within the time limits set forth in §89(3)(a) of FOIL, it follows that the agency also failed to inform the person denied access to records of their right to appeal. The state's highest court has held that a failure to inform a person denied access to records of the right to appeal enables that person to seek judicial review of a denial. Citing the Committee's regulations and FOIL, the Court of Appeals in Barrett v. Morgenthau, 74 NY 2d 907 (1989) held that:

"[i]nasmuch as the District Attorney failed to advise petitioner of the availability of an administrative appeal in the office (see, 21 NYCRR 1401.7(b)) and failed to demonstrate in the proceeding that the procedures for such an appeal had, in fact, even been established (see, Public Officers Law §87(1)(b)), he cannot be heard to complain that petitioner failed to exhaust his administrative remedies." (74 NY 2d 907, 909 (1989))

In the same vein, when an agency fails to grant or deny access to requested records within FOIL's statutory time limits and as such, failed to advise requestor of the availability of an administrative appeal, it "cannot be heard to complain" that requestor failed to submit an appeal of the constructive denial within 30 days. In our view, Ms. Sforza should not be penalized for her patience in affording the agency additional time to respond to her request.

It is my understanding that the agency, as of the date of the appeal determination, still had not rendered a determination on rights of access to the requested records. It is contrary to the intent of FOIL, as set forth in the legislative declaration, ("... it is incumbent upon the state and its localities to extend public accountability wherever and whenever feasible.") to permit an agency to disregard the time limits set forth in §89(3)(a) of FOIL and to then deny an applicant's appeal of its constructive denial as untimely. Such interpretation could lead to the untenable result of incentivizing agency delays in responding to FOIL requests.

This advisory opinion is offered in an effort to encourage the County to reconsider the matter and respond to Ms. Sforza's original FOIL requests as expeditiously as possible.

Sincerely,

Kristin O'Neill
Assistant Director

cc: Newsday

FOIL-AO-f19372
19372

EXHIBIT 6



THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

MICHAEL A. CARDOZO
Corporation Counsel

JESSE LEVINE
Assistant Chief WTC Unit
212 341 3713

Re: World Trade Center File Retention

Dear NYC Employee:

These original World Trade Center documents have been collected and scanned by the New York City Law Department. **DO NOT DISPOSE OF THESE DOCUMENTS**: they must be preserved to serve as evidence in the event future WTC-related legal actions are brought against the City.

If you would like to dispose of any of these documents, contact me directly at the New York City Law Department at (212) 341-3713. If I am not available, please contact Carlos Dennis at (212) 788-8696. If appropriate, the Law Department will arrange for the pick up of any documents that you no longer need.

Also, in the event you are planning to leave your current position, please email me at jlevine@law.nyc.gov to inform me of the identity of the new custodian of these documents.

Thank you for your cooperation.

Sincerely,



Jesse Levine, Esq.



NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

Michael A. Cardozo, Corporation Counsel

Press Release

Web: nyc.gov/html/law/home.html

For Immediate Release

**NEW YORK CITY LAW DEPARTMENT CREATES
SPECIAL WORLD TRADE CENTER UNIT
IN RESPONSE TO SEPT. 11TH NOTICE OF CLAIMS**

Contact: Kate O'Brien Ahlers, Communications Director, (212) 788-0400, kahlers@law.nyc.gov

New York, September 9, 2002 -- The New York City Law Department has established a new World Trade Center Unit to respond to more than 1,560 tort claims seeking about \$9 billion relating to the Sept. 11th attacks. The claimants include families of those killed in the attacks, City uniformed service personnel and downtown property owners. The specialized unit will consist of 25 full-time litigators -- about half of whom are veterans of the Law Department, with the other half drawn from attorneys previously in the private sector. The unit will also consist of 17 support members, including private investigators as well as paralegals and data entry clerks. Virtually all of the positions have been filled.

"September 11th was tantamount to an act of war," noted Corporation Counsel Michael A. Cardozo. "It was a terrible tragedy that New York City could in no way have predicted. Given the circumstances, the City responded in an extraordinary and unprecedented manner. It did everything in its power to support the heroes who helped on that tragic day and in the ensuing rescue and clean-up efforts."

However, the "huge unforeseen events on Sept. 11th have led to a potential litigation explosion," Cardozo noted. "We created the unit in response to these 1,500-plus notice of claims."

Fay Leoussis, Chief of the Tort Division, whose department oversees the new unit, noted that the Special Victim Compensation Fund administered by Ken Feinberg offers those affected by the tragedy a fair and expedited avenue for adjudicating claims. "The Federal fund offers virtually all eligible victims several benefits that lawsuits do not," she stressed. These include: no need to prove liability, no risk of losing the case (a guaranteed payout) and payouts in a very short period of time. She added that in light of federal and state laws providing for immunity in these types of cases, together with improbability that the City was negligent, the ability of these individuals to prevail in their claims against the city was highly unlikely.

The World Trade Center Unit is being led by veteran Law Department litigators, including Unit Chief Kenneth Becker and Deputy Chief Gary Shaffer. In addition to litigating cases, the unit will investigate and pursue fraudulent claims.

"The new unit fulfills an important role for the City," said Becker. "We have put together an outstanding team that is taking its mandate very seriously."

Shaffer concurred, saying: "The City responded on and after Sept. 11th under extremely difficult conditions, when human and other resources were stretched to the limit, and decisions were made with the best possible information available. Caring people at all levels of government dealt with this unimaginable tragedy with grace, dedication and altruism. As these claims are heard, I believe the facts will confirm that the City did everything in its power to assist people."

The New York City Law Department is one of the oldest, largest and most dynamic law offices in the world, ranking among the top three largest law offices in New York City and the top three largest public law offices in the

EXHIBIT 7

Congress of the United States

Washington, DC 20510

September 20, 2021

Dear Mayor de Blasio:

Given the recent 20th Anniversary of the 9/11 attacks, we call on you and your administration to open the City's files on the aftermath of the attacks to help provide injured and ill 9/11 responders, survivors, and their families a better understanding of what the City knew at the time about the likely scope of the health crisis and when they knew it.

The time has come for a full accounting of the history of 9/11. President Biden's ongoing review and declassification of documents related to the Kingdom of Saudi Arabia's possible involvement in the 9/11 attacks were a critical first step in this accounting. Providing full transparency on what the government knew about the health risks at Ground Zero and how they potentially covered up that information will finally provide transparency to a too-often overlooked aspect of the attack's history.

Throughout our two decades of work with the 9/11 community to guarantee their health care and compensation, we have faced resistance from many in the federal government – namely to admitting that the toxins released in the attacks and during cleanup posed a serious and ongoing health hazard to those on the pile and in the vicinity. Those health risks, about which we immediately warned the government, have now caused enormous harm to thousands of responders and survivors. Many of them are now living with – and too many are dying from – 9/11 related health conditions caused by exposure to those toxins 20 years ago.

In 2003, the U.S. Environmental Protection Agency (EPA) released a report on how they responded to 9/11.¹ This report outlined what the federal government knew about the extent of the problem and the clear health threat, after the EPA Administrator Christie Todd Whitman had repeatedly said that the “air was safe to breathe.” However, we have yet to see a full accounting of what then-Mayor Giuliani and his administration knew at the time.

While previous reports have hinted at what the Giuliani administration knew about the health risks,² it is time for a complete accounting of this history. If it is true that they knew that thousands of responders and community members would face tremendous long-term health impacts, the administration unnecessarily delayed the effort to provide health care to the thousands of responders and survivors exposed in the aftermath on the pile and in schools, offices, and homes around the area.

¹ Office of Inspector General, U.S. Environmental Protection Agency, Report #2003-P-00012, *Report: EPA's Response to the World Trade Center Collapse: Challenges, Successes, and Areas for Improvement* (Aug. 21, 2003), <https://www.epa.gov/office-inspector-general/report-epas-response-world-trade-center-collapse-challenges-successes-and>.

² Anthony DePalma, *Ground Zero Illnesses Clouding Giuliani's Legacy*, N.Y. Times (May 14, 2007), <https://www.nytimes.com/2007/05/14/nyregion/14giuliani.html>.

It is imperative that we learn from the mistakes made in the aftermath of the attacks and ensure that in any future disasters, we are better prepared to identify and deal with potential long-term health risks.

We urge you to have the City of New York review its files and, in the interest of transparency, fully release any information it has on the what the City knew about the hazards faced by 9/11 responders and survivors who lived, worked, and went to school in the covered disaster zone.

More specifically, we ask that the City release any documents related to 9/11 that are in its files or emails from the period of September 11, 2001 through the spring of 2002. While some documents may have been disclosed in past litigation, we do not believe this represents the entirety of the City's files and demand a complete release.

Two decades later, a full review remains pressing. Elected officials who made life and death decisions, and who failed to disclose vital information owe accountability to the public. Finally, it is critical that lessons be learned to protect responders and the public in any future disaster.

Sincerely,



Carolyn B. Maloney



Jerrold Nadler

Congress of the United States

Washington, DC 20510

May 12, 2022

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

Dear Mayor Adams:

Last year, shortly after the 20th Anniversary of the 9/11 attacks, we wrote to then-Mayor DeBlasio, on September 20th, 2021, asking that he and his administration open the City's files on the aftermath of the attacks to help provide injured and ill 9/11 responders, survivors, and their families a better understanding of what the City government knew at the time about the likely scope of the health crisis and when they knew it. A copy of our letter is enclosed.

As we stated in our letter at the time, "The time has come for a full accounting of the history of 9/11. The ongoing review and declassification of documents related to the Kingdom of Saudi Arabia's possible involvement in the 9/11 attacks ordered by President Biden was a critical first step in this accounting. Providing full transparency on what the government knew about the health risks at Ground Zero and how they potentially covered up that information will finally provide transparency to a too-often overlooked aspect of the attack's history."

"Throughout our two decades of work with the 9/11 community to guarantee their health care and compensation, we have faced resistance from many in the federal government – namely to admitting that the toxins released in the attacks and during cleanup posed a serious and ongoing health hazard to those on the pile and in the vicinity. Those health risks, about which we immediately warned the government, have now caused enormous harm to thousands of responders and survivors. Many of them are now living with – and too many are dying from – 9/11 related health conditions caused by exposure to those toxins 20 years ago."

"In 2003, the U.S. Environmental Protection Agency (EPA) released a report on how they responded to 9/11.¹ This report outlined what the federal government knew about the extent of the problem and the clear health threat, after the EPA Administrator Christie Todd Whitman had repeatedly said that the 'air was safe to breathe.' However, we have yet to see a full accounting of what then-Mayor Giuliani and his administration knew at the time."

While this report was released 20 years ago, 9/11 responders, survivors, and their families continue to deal with the health impacts of toxin exposure everyday of their lives. As we urged former Mayor DeBlasio last year, we urge you to have the City review its files and, in the interest of transparency, fully release any information it has on the what the City knew about the

¹ Office of Inspector General, U.S. Environmental Protection Agency, Report #2003-P-00012, *Report: EPA's Response to the World Trade Center Collapse: Challenges, Successes, and Areas for Improvement* (Aug. 21, 2003), <https://www.epa.gov/office-inspector-general/report-epas-response-world-trade-center-collapse-challenges-successes-and>.

hazards faced by 9/11 responders and survivors who lived, worked, and went to school in the covered disaster zone.

More specifically, we urge the City to release any documents related to 9/11 that are in its files or emails from the period of September 11, 2001 through the spring of 2002. While some documents may have been disclosed in past litigation, we do not believe this represents the entirety of the City's files and demand a complete release.

We hope that before this coming 9/11 Anniversary, the City will release whatever documents it may have so that we can finally get a full accounting on what was known.

Thank you for your attention to this issue and we look forward to hearing from you and your administration.

Sincerely,



Carolyn B. Maloney



Jerrold Nadler



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

July 6, 2022

The Honorable Carolyn Maloney
Congresswoman
U.S. House of Representatives
2308 Rayburn House Office Building
Washington, DC 20515

The Honorable Jerrold Nadler
Congressman
U.S. House of Representatives
2132 Rayburn House Office Building
Washington, DC, 20515

Dear Congresswoman Maloney and Congressman Nadler:

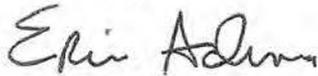
Thank you for your letter, dated May 12, 2022, and for providing the previous letter to Mayor de Blasio, concerning documents related to September 11th and Ground Zero. I, like all New Yorkers, remember the day our city was forever changed. As a NYPD lieutenant securing the World Trade Center on 9/11, I witnessed firsthand the ground smoldering, the demolished buildings, and the horror of that day. I also remember the many lives lost and the countless heroes who put themselves in harm's way that day and the many days that followed. We all know someone who died that day, and we hold their memories close to our hearts. I also know the collective grief shared by the responders, survivors, and the families of those that died and have suffered along with all New Yorkers who remember that horrible day.

September 11, 2001 was devastating to responders, survivors, and their families. As I stood with them then, I stand with them now, as we remember those that died in the attacks. I also stand with those that suffer from illnesses they have been forced to endure because of their proximity to Ground Zero. I commend Congress for creating the September 11th Victim Compensation Fund, the James Zadroga 9/11 Health and Compensation Act, and the subsequent reauthorizations to ensure anyone who suffered harm or was killed as a result of 9/11 or the debris removal efforts at Ground Zero are compensated. The Victim Compensation Fund has provided critical relief to so many and I thank Congress for working to provide financial security to the responders, survivors, and their families.

I also applaud Congress for acting after 9/11 by providing FEMA funding to establish the World Trade Center Captive Insurance Company, which insured New York City and its contractors for claims arising from debris removal at the World Trade Center.

My administration is deeply committed to ensuring that the responders, survivors, and their families are supported. As Chair of the House Oversight and Reform Committee and Chair of the House Judiciary Committee, Congresswoman Maloney and Congressman Nadler continue to lead advocacy on highlighting the emerging needs of responders, survivors, and their families for the City of New York. To that end, I would like to invite your offices to a meeting with my team, so we can determine the best path forward. We sincerely appreciate your concerns and your interest in the continued support of New Yorkers and those affected by the 9/11 attacks. I look forward to ongoing collaboration.

Sincerely,

A handwritten signature in black ink that reads "Eric Adams". The signature is written in a cursive, flowing style.

Eric Adams
Mayor

Congress of the United States
Washington, DC 20515

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

February 16, 2023

Dear Mayor Adams:

We are writing to you again to renew the request that the City of New York finally, 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, the subsequent cleanup, and when it knew this information.

This letter is to follow up on letters sent to then-Mayor DeBlasio on September 20, 2021, and to you on May 12, 2022, asking the City to finally open its files on the aftermath of the attacks—and help provide injured and ill 9/11 responders, survivors, and their families a better understanding of the origins of what they have faced.

We have enclosed copies of those letters and your response on July 6, 2022.

It is long past time for full disclosure of the City's records. While more than 20 years have passed, we still do not know the full impact of that day and the aftermath on the health of thousands of New Yorkers, and the full extent of what the City knew at the time.

For years, the City's failure to disclose documents regarding the harmful impacts of the toxins released in the 9/11 attack has directly harmed September 11th responders, recovery workers, residents, and survivors. These residents and survivors include young people who were in schools and daycares in downtown Manhattan on 9/11 and during clean-up that continue to experience adverse health effects at high rates.

Information in the City's records pertaining to the earliest analyses of the toxins, dust, and fumes blanketing lower Manhattan and Brooklyn will likely inform and advance medical research conducted on behalf of those struggling with 9/11 illnesses, including those who were children at the time of the attacks.

While we understand that the City is concerned about its liability, releasing the records will likely help to save lives.

To better address the public health impact of the attacks on children, Congress acted in December to authorize the creation by the World Trade Center Health Program of a new research cohort of the nearly 35,000 people who were children on 9/11 and were brought back into lower Manhattan and western Brooklyn to live and go to school or daycare in the months after the attacks while the wreckage was still smoldering.

At the same time, Congress had to authorize an additional \$1 billion to the World Trade Center Health Program because of increasing costs caused by rising enrollment and increasing diagnoses of multiple conditions—especially cancers—to address a \$3 billion-dollar projected shortfall in the program.

Based on *New York Times* reporting (*"Ground Zero Illnesses Clouding Giuliani's Legacy"* May 14, 2007), we know that while then-Mayor Giuliani's administration was saying publicly that the air was safe to breathe, they were privately predicting 10,000 liability claims for injuries from toxic exposures.

“Whatever they were saying publicly about the safety of the air, Mr. Giuliani and his staff were privately worried. A memo to Deputy Mayor Robert M. Harding from his assistant in early October said that the city faced as many as 10,000 liability claims connected to 9/11, “including toxic tort cases that might arise in the next few decades.”¹

But that is the extent of what we know.

That's because, following your July 6, 2022 reply to our letter, our staff met with the City Corporation Counsel staff. Despite the benefits that releasing the records could mean for informing and advancing medical research conducted on behalf of those struggling with 9/11 illnesses, Corporation Counsel attorneys clearly stated they have a strong incentive to keep any 9/11 aftermath documents privileged because otherwise, the city would be liable for those claims.

In addition to records pertaining to the earliest analyses of the toxins, dust, and fumes blanketing lower Manhattan and Brooklyn, we request transparency on what the Giuliani administration knew about the health risks at Ground Zero and how they potentially covered up that information to finally provide transparency to a too-often overlooked aspect of the attack's history.

We are joined in this call by a host of community-based organizations and are attaching five letters sent to you in September of 2022.

We hope and believe that you will direct the City's Department of Investigations to conduct a thorough search of the available records from the then-Mayor's office, the City Departments of Health, Education, Police, Fire, Design and Construction and Emergency Management to name the most likely agencies that need their files reviewed.

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

We specifically believe New Yorkers need to see the following:

1. Release of the full copy of the memo 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. Any internal notes or memos regarding the Department of Education's decision to move kids and teachers back into schools in the frozen zone below Houston. We know that there were parents who expressed strong concerns and even protested this move. What were the deliberations in the DOE? What testing was done to determine the safety of the schools?
3. Any records, communications, or memos from the New York City Departments of Health and the Environmental Protection that address the scope and toxicity of the WTC plume and the dust, and the exposures New Yorkers experienced.

We have faith that you will not allow this to continue and that you will order the City's agencies to fully disclose what the Giuliani administration knew about the toxins at Ground Zero while they were saying it was safe for New Yorkers to return. We look forward to receiving your response.

Sincerely,



Jerrold Nadler
Member of Congress



Dan Goldman
Member of Congress



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

March 22, 2023

The Honorable Jerrold Nadler
United States House of Representatives
2132 Rayburn House Office Building
Washington, DC 20515

The Honorable Dan Goldman
United States House of Representatives
245 Cannon House Office Building
Washington, DC 20515

Dear Representative Nadler and Representative Goldman:

Thank you for your letter, dated February 16, 2023. As someone who was a first responder on September 11th, I am reminded of the horror and heartache that so many families and survivors endured not only on that terrible day more than 20 years ago but also in the days since. I take my responsibility as a first responder, New Yorker, and now Mayor seriously – to protect New Yorkers and make whole, to the best of my ability, the victims, responders, families, and survivors who have endured so much. They must always know that New York City has their back.

In your letter, you state that research is needed into the illnesses regarding the toxins in and around Ground Zero. After September 11th, there were concerns about potentially long-term health effects from the disaster, especially from the toxins people inhaled from the dust cloud and the psychological impact of the events. To address these concerns, in November 2001, the New York City Department of Health and Human Services (NYC DOHMH) helped create a registry devoted to handling September 11th-related health effects.¹ Their main goals were to:

- Track the short and long-term health of people exposed to the September 11th disaster in NYC and its aftermath, including responders and area residents, workers, and children;
- Document the physical and mental health impact of the September 11th disaster and gaps in care;
- Investigate cancers and mortality among those who were exposed to the September 11th disaster;
- Inform September 11th-related health care; and
- Help enrollees and others find services for their September 11th health-related conditions.

In addition, since the day of the attacks, New York City as well as federal, state, and local authorities, researchers, and health professionals, have published reports, articles, and data regarding the measured toxins released in the September 11th attacks, and their current and long-term effects on responders, recovery workers, residents, and others who were exposed to them.

¹ <https://www.nyc.gov/site/911health/about/wtc-health-registry.page>

Lessons learned from a disaster can save lives and reduce injuries in future disasters, and we are and have been committed to doing just that. Below is small, non-comprehensive sample of the publicly available data and research regarding the toxins and health effects of the September 11th attacks:

- NYC DOHMH's September 11th Health website, which maintains a comprehensive list of September 11th-related research studies and findings;
- Reports from the WTC Medical Working Group, which reviewed research findings on the health effects of WTC exposure;
- U.S. Environmental Protection Agency's Response to the WTC Collapse: Challenges, Successes & Areas for Improvement;
- U.S. Government Accountability Office, Sept. 11 Health Effects in the Aftermath of the WTC Attacks;
- WTC Health Registry NYC DOHMH, Vol 1, No. 1: Addressing the Health Impacts of 9/11;
- Addressing the Health Impacts of 9-11: Report and Recommendations to Mayor Michael Bloomberg;
- U.S. Dept of Health and Human Services/CDC/NIOSH: First Periodic Review of Scientific & Medical Evidence Related to Cancer for the WTC Health Program;
- U.S. Environmental Protection Agency, Toxicological Effects of Fine Particulate Matter Derived from the Destruction of the World Trade Center (attached); and
- NYC DOHMH, et al, Final Report re: Potential Exposure to Settled Surface Dust (attached).

As I stated in my July 6, 2022 letter, I commend Congress for creating the September 11th Victim Compensation Fund (VCF), which provides compensation to those qualified who suffered injury or were killed as a result of September 11th or the debris removal efforts at Ground Zero. New York City has worked closely with the VCF to ensure that City employees and others who were present in the enumerated zones on September 11th, or the days that followed the horrible attack, have the documents necessary to qualify to receive the compensation they deserve. I have also seen the lifelong injuries and serious medical conditions that those who saved lives at Ground Zero developed, so I am extremely thankful to the New York City Congressional delegation for securing \$1 billion for the September 11th Health Program.

I commend Congress for extending the VCF filing deadline to October 1, 2090, thereby allowing many more victims to be compensated under a simplified claim filing system that does not require lawyers, lawsuits, or proof of causality. Given these benefits, it is no surprise that over 34,000 victims have been compensated by the VCF in the last decade.

Although far less frequent, individuals have on occasion in the last decade filed claims against New York City. As discussed at the July 15, 2022 meeting with Congressional staff, the legislation establishing the James Zadroga 9/11 Health and Compensation Act left New York City subject to up to \$350 million in liability as a result of litigation arising from the September 11th attacks. Accordingly, with the continued threat of litigation, New York City cannot produce documents without expensive and expansive legal review to identify privileged material and consider litigation risks. New York City must weigh the costs of such a review against the potential

benefits, which are likely limited given the extensive reviews and reporting already available on the health effects of the September 11th attacks, as well as the ability of victims to file claims under the VCF until 2090 without proof of causality. However, given the public interest in the production of these documents, New York City is working to determine the estimated cost of such a legal review. We are happy to work with your offices to determine potential federal funding sources and any necessary federal legislation to make production of documents economically and legally feasible for the City of New York.

That said, my administration is committed to continuing to support the responders, survivors, victims, families, and all those affected by the September 11th attacks. We look forward to continued discussion with your offices.

Sincerely,

A handwritten signature in blue ink that reads "Eric Adams". The signature is written in a cursive, flowing style.

Eric Adams
Mayor



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 Dep't, 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*, 911 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

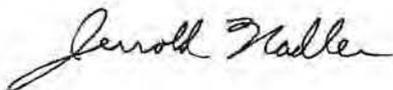
1. Release the full copy of the memorandum from the Giuliani administration from Deputy Mayor Robert M. Harding from October 2001 and any correspondence that led to his writing and drafting of this memo.
2. Release any records, communications, or memorandums from the New York City Departments of Health 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

EXHIBIT 8

MCKenna v City of New York

2024 NY Slip Op 33137(U)

August 26, 2024

Supreme Court, Kings County

Docket Number: Index No. 515104/2022

Judge: Ingrid Joseph

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

At an IAS Part 83 of the Supreme Court of the State of New York held in and for the County of Kings at 360 Adams Street, Brooklyn, New York, on the 26th day of August 2024.

PRESENT: HON. INGRID JOSEPH, J.S.C.
SUPREME COURT OF THE STATE OF
NEW YORK COUNTY OF KINGS

-----X
PAUL MCKENNA,

Petitioner(s)

Index No: 515104/2022
Motion Seq. 5

-against-

THE CITY OF NEW YORK, DEPARTMENT OF FINANCE, and
PRESTION NIBLACK,
In his official capacity as Commissioner of the
Department of Finance.

ORDER

Respondent(s)

For a judgment Pursuant to Article 78
Of the Civil Practice Law and Rules

-----X
The following e-filed papers read herein:

NYSCEF Nos.:

Notice of Motion/Petition/Affidavits Annexed	62-64
Exhibits Annexed/Reply.....	65-70; 92
Affirmation in Opposition/Affidavits Annexed/Exhibits Annexed.....	89; 12-25

Petitioner Paul Mckenna (“Petitioner”) moves by motion, for an order granting Petitioner attorney’s fees and costs totaling \$36,163.11, plus the costs of the fee application, pursuant to Public Officer Law § 89 (4) (c) (ii). Respondent The City of New York Department of Finance (“Respondent”) has opposed this motion.

On December 10, 2021, Petitioner filed two Freedom of Information Law (“FOIL”) requests (FOIL requests 749 & 750) with the Respondent, seeking any records pertaining to property taxes assessed on Petitioner’s property. On December 13, 2021, Respondent informed Petitioner that a response to both FOIL requests could be expected on or about February 16, 2022. On February 24, 2022, Respondent sent Petitioner five tax documents and notified Petitioner that FOIL request 750 was closed. However, on March 2, 2022, Petitioner emailed the FOIL officer stating that the five documents Petitioner received were not exhaustive and identified other responsive documents that existed (NYSCEF Doc.19). That same day, Respondent reopened FOIL request 750 and informed Petitioner that a new response could be expected on or about March 31, 2022. On March 31, Respondent informed the Petitioner, via email, that Respondent was still awaiting records from the Property Division and that FOIL request 750 was still being researched and additional time was needed to respond, and a response could be

expected on or about April 28, 2022 (NYSCEF Doc. 22). On April 28, Petitioner was informed that the Respondent was still awaiting responsive records and additional time was needed to respond, with an updated response date of May 26, 2022.

On May 24, 2022, Petitioner commenced an Article 78 proceeding, seeking an order directing Respondent to provide the requested records sought in both FOIL requests. Following the commencement of the Article 78 proceeding, Petitioner's requests were delayed an additional three times. On May 26, 2022, Petitioner was informed that a response could be expected on June 27, 2022. However, on June 27, Petitioner was notified that the response was further delayed until September 21, 2022. On September 23, Petitioner received another update, pushing the expected response date to December 21, 2022. For each delay Respondent informed the Petitioner that the requests were still being processed and additional time was needed to respond.

On October 4, 2022, Petitioner filed an Order to Show Cause ("OSC") seeking the production of all responsive documents by October 21, 2022. A hearing was held on November 30, 2023, during which the Court ordered Respondent to produce all responsive records relating to Petitioner's FOIL requests by December 12, 2022. On December 1, 2022, Petitioner received twenty-two documents from the Respondent. On December 12, 2022, Respondent sent an additional fifteen documents to the Petitioner. On December 21, 2022, a hearing was held on Respondent's motion to dismiss Petitioner's OSC. The Court dismissed the already granted OSC and dismissing the matter without prejudice (NYSCEF Doc. 51). On February 6, 2023, Petitioner received from Respondent an additional seven documents. In total, after the Court's November 30 order, the Petitioner received forty-four documents in response to Petitioner's FOIL request. On October 24, 2023, Petitioner filed a motion to reargue the Court's order dismissing the OSC. On October 24, 2023, The Court granted Petitioner's motion and clarified that the motion to dismiss and OSC were denied as moot as a result of Respondent's production of the requested documents (NYSCEF Doc. 61).

On December 11, 2023, Petitioner initiated this instant motion, seeking attorney's fees in the amount of \$36,163.11. Petitioner argues that they have met the statutory requirements for seeking attorney's fees, as they substantially prevailed in the Article 78 proceeding, and the Respondent lacked a reasonable basis for the repeated extensions. Petitioner contends that Respondent failed to comply with its obligations by repeatedly and unreasonably pushing back its anticipated response date. Petitioner contends that Respondent's repeated extensions constituted a constructive denial of FOIL requests. In support of the amount of attorney's fee requested Petitioner asserts that significant time and effort was expended in this case. Petitioner further asserts that this was not a routine case because it did not involve an explicit denial. Petitioner also asserts that the hourly rates and the total amount sought in this case are consistent with the rates and amounts awarded by other courts in similar cases.

In opposition to the Plaintiff's motion, Respondent argues that Plaintiff did not substantially prevail, as the Article 78 proceeding did not initiate the release of the requested documents. Respondent asserts that it began searching for the requested records months before the initiation of the Article 78 proceeding and that the deadline extensions were reasonable. Respondent argues that Petitioner was informed, in good faith that additional time was needed to process the FOIL requests and was provided with a reasons for the delays. Respondent further argues that if the Court determines that Petitioner is entitled to attorney's fees, Petitioner's hourly rate and hours requested by Petitioner are unreasonable. Respondent asserts that none of the cases cited in Petitioner's Memorandum of Law (NYSCEF Doc. 64) awarded an hourly rate of \$600.00, arguing that an hourly rate of \$400.00 or less would be reasonable. Respondent argues that Petitioner should only be credited a total of 21.9 hours

In order to create a clear deterrent to unreasonable delays and denials of access and thus, encourage government to make a good faith effort to comply with the requirements of FOIL, the legislature has provided for the assessment of attorney's fees and other litigation costs in FOIL proceedings" (*Matter of Law Offs. of Cory H. Morris v County of Nassau*, 184 AD3d 830 [2d Dept. 2020]; see Public Officers Law § 89[4][c]; *Matter of Cook v Nassau County Police Dept.*, 140 AD3d 1059 [2d Dept. 2016]). Thus, "[t]he court . . . shall assess, against such agency involved, reasonable attorney's fees and other litigation costs reasonably incurred by such person in any case under the provisions of" Public Officers Law § 89 "in which such person has substantially prevailed and the court finds that the agency had no reasonable basis for denying access" (*id.* § 89[4][c][ii]). "A petitioner has 'substantially prevailed' within the meaning of Public Officers Law § 89(4)(c) when the commencement of the CPLR article 78 proceeding ultimately succeeds in obtaining the records responsive to the FOIL request, whether by court order or by voluntary disclosure" (see *Matter of Madeiros v New York State Educ. Dept.*, 30 NY3d 67 [2017]; *Matter of McDevitt v Suffolk County*, 183 AD3d 826, 828 [2d Dept. 2020]).

A New York City agency may respond to a request for records by "acknowledging the receipt of a request in writing, including an approximate date when the request will be granted or denied in whole or in part, which shall be reasonable under the circumstances of the request and shall not be more than twenty business days after the date of acknowledgment, or if it is known that circumstances prevent disclosure within twenty business days from the date of such acknowledgement, providing a statement in writing stating the reason for inability to grant the request within that time and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted in whole or in part" (21 NYCRR § 1401.5 [c] [3]). "Generally, an agency must respond to a written request and there is no specific time period in which the agency must grant access to the records" (see *Matter of Save Monroe Ave. v New York State Dep't of Transp.* 197 AD3d 808, 808 [3d Dept 2021] quoting *Matter of Data Tree*

LLC v Romaine, 9 NY3d 454, 465 [2007]). “In determining a reasonable time for granting or denying a request under the circumstances of a request, agency personnel shall consider the volume of a request, the ease or difficulty in locating, retrieving or generating records, the complexity of the request, the need to review records to determine the extent to which they must be disclosed, the number of requests received by the agency and similar factors that bear on an agency’s ability to grant access to records promptly and within a reasonable time” (21 NYCRR § 1401.5 [d]).

The Court finds that Petitioner substantially prevailed on its FOIL cause of action. Following the Court’s order on November 30, 2023, Petitioner received 89% of the responsive documents. Petitioner’s commencement of the Article 78 proceeding ultimately resulted in the acquisition of the remaining FOIL documents sought.

Contrary to Respondent’s assertions the Court finds that Respondent did not provide a reasonable basis for the multiple extensions. From March 2, 2022, through September 21, 2022, Respondent extended the expected response date six times. Out of the six extensions only once did the Respondent suggest that there was difficulty locating the requested documents. In its March 31, 2022, email, Respondent indicated that it was awaiting records from the Property Division. Respondent did not begin to provide Petitioner with responsive documents until December 1, 2023, and did not complete the requests until February 6, 2023, eleven months after the reopening of FOIL request 750. Respondent neither argue that the agency was dealing with a high volume of requests, nor claimed that the volume or complexity of the requests caused the delay. Additionally, Respondent does not assert that an extensive review of the records was needed to determine the extent of disclosure required. The Court, taking into consideration the low number of documents, finds that Respondent did not provide a reasonable basis for the multiple extensions.

The Court now looks to determine if the attorney’s fees requested by Petitioner is reasonable. Public Officer Law § 89 (4) (c) (ii) does not provide any express guidance as to what is to be considered in awarding an attorney’s fee. However, a reasonable attorney’s fee is commonly understood to be a fee which represents the reasonable value of services rendered. (*see NYCTL 1998-1 Trust v Oneg Shabbos, Inc.*, 37 AD3d 789, 791 [2d Dept. 2007]; *Matter of Gamache v Steinhaus*, 7 AD3d [2d Dept. 2004]). In general, factors to be considered include (1) the time and labor required, the difficulty of the questions involved, and the skill required to handle the problems presented; (2) the lawyer’s experience, ability, and reputation; (3) the amount involved and benefit resulting to the client from the services; (4) the customary fee charged for similar services; (5) the contingency or certainty of compensation; (6) the results obtained; and (7) the responsibility involved (*Matter of Freeman*, 34 NY2d 1 [1974]; *Matter of Gaffney v Village of Mamaroneck*, 21 AD3d 1032 [2d Dept. 2005]; *Steiger v Dweck*, 305 AD2d 475 [2d Dept. 2003]).

Here, Petitioner is an attorney with approximately 14 years of litigation experience (NYSCEF Doc. 63). Taking into consideration Petitioner's legal experience and ability and the customary fee for similar services the Court finds that an hourly rate of \$475.00 to be reasonable. In determining the reasonable number or hours, the Court considered the time and labor required, the results obtained, the benefit to the client from the services rendered and the difficulty of the issue presented. The Court finds that a reasonable number of hours is 49.7 hours. Petitioner's invoice indicates that a total of 8.9 hours of work was spent on a motion to reargue. However, since the Court had already issued an order directing the Respondent to provide all responsive documents by December 12, 2022, the motion to reargue did not provide any additional benefit to the Petitioner's client. Consequently these 8.9 hours have been deducted from the total.

The Court finds that 49.7 hours at \$475.00 for Petitioner for a fee award of \$23,607.50 and \$1,000.11 in costs for a total award of \$24,610.61 to be fair and reasonable.

Accordingly, it is hereby

ORDERED, Petitioner's motion seeking attorney's fees is granted.

ORDERED, that an award of \$24,610.61 in attorney's fees and cost be entered in the Petitioner's favor.

This constitutes the decision and order of the court.



HON. INGRID JOSEPH, J.S.C.

**Hon. Ingrid Joseph
Supreme Court Justice**

EXHIBIT 9

GRAND ILLUSION

**THE UNTOLD STORY
OF RUDY GIULIANI AND 9/11**

**WAYNE BARRETT AND
DAN COLLINS**

**Research Assistance by
ANNA LENZER**

 HarperCollins *Publishers*

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GRAND ILLUSION

THE WORLD'S STORY
OF GREATNESS AND DEATH

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so aggressively pursuing fed-
y. As early as October 4, City

Comptroller Alan Hevesi had issued a report on the impact of 9/11 on the city's budget and cited its potential liability for workers' respiratory illnesses. Even as every public pronouncement from the mayor and his men was filled with reassurance, an internal memo to Deputy Mayor Robert Harding reported that the Law Department was estimating that there were 35,000 potential 9/11 plaintiffs against the city. Two of the prime potential claims cited in the memo—just weeks into the cleanup—were that rescue workers had been "provided with faulty equipment or no equipment (i.e., respirators)" and that Ground Zero was an "unsafe workplace" under various federal safety and labor laws. The memo urged the city to push Congress to create a fund to cover the city's liability similar to the 9/11 Victim Compensation Fund it had just created for the airline industry.¹³ On November 1, Giuliani wrote a letter to Congress supporting an amendment to the Victim Compensation Fund legislation that would extend its benefits to those working at the site, as well as fix a \$350 million cap on city liability. In late November, an amendment passed achieving both purposes. Those who could make a provable case of injury at the site were added to the list of eligible fund recipients, if they, like the families of the dead, surrendered their right to sue.

For all the tragedy the terrorists had created in Lower Manhattan, everyone involved with the recovery was aware that things could have been far worse. There were no "dirty" bombs on the planes and therefore no radiation. The huge tanks of Freon stored below the towers for air-conditioning did not explode. And the so-called "bathtub"—a massive concrete wall that surrounded the World Trade Center's seven-story basement and prevented the complex from being inundated by the Hudson River—did not rupture. After the towers collapsed, support for some parts of the wall was provided only by the tons of debris that had fallen into the basement. Careless removal of the debris could have caused part of the wall to collapse inward and, in the worst-case scenario, send in torrents of gushing water that would have drowned the workers in the basement, flooding the railroad tunnels, the subway system, and even part of the city.

8 Million Survivors in Need of Affection,"

ew Press, 2002.

Ground: *Unbuilding the World Trade Center*
e to life at Ground Zero.

blems Plague Ground Zero Workers,"

uggested that the rescue phase of the op-
ide in the actual management of the site.
ne city no longer "expected to find any-
ould "conduct the operation in the same
thing we would do to recover someone

Fire Department remained the incident
ation. It wasn't until October 31 that the
a (DDC) was nominally named the coin-
testimony in the pending Ground Zero

ment did not change site management.
ne FDNY with separate NYPD and Port
operations, was in effect a continuation of
," "It really doesn't matter if you describe

rk, he indicates that the conversion to a
ction phase never happened, and, in an
olden agreed. Holden also testified in a
ne ever told me I was an incident com-
ident commander is." Holden's deputy

osition in 2005 that a deputy mayor
-incident commander. He said that all it
oint daily meetings rather than sending
hey previously hosted.

its Hardhat Holiday Gripe," *New York*
icle in the *American Journal of Industrial*
Health and Safety Since September 11,

ment in October 2003 that he jointly
vid Prezant for the Congressional Sub-
g Threats and International Relations.
and Prezant and Weiden are top assis-
n Services.
on at the World Trade Center: Lessons
Clearinghouse for Worker Safety and
/Respiratoruse.pdf

10. Juan Gonzalez, "A Toxic Nightmare at Disaster Site," *New York Daily News*, October 26, 2001.

11. Francesca Lyman, "Messages in the Dust: What Are the Lessons of the Environmental Health Response to the Terrorist Attacks of September 11?," National Environmental Health Association publication, September 2003.

12. In a January 2004 interview with EPA regional communications director Bonnie Bellow, she said that Whitman "felt so strongly about the need for the use of respirators" that she made these midnight calls "while watching CNN covering Ground Zero workers without respirators on."

13. Michelle Goldstein memo to Deputy Mayor Robert Harding, re: "Legislative Alternatives to Limit the City's Liability relating to 9/11/01," undated.

14. Bruce Lippy, "Cleaning Up After 9/11: Respirators, Power and Politics," *Occupational Hazards*, May 29, 2002.

15. William Langewiesche, "American Ground."

16. As quoted in *Never the Same*, a documentary by Jonathon Levin.

17. Ginger Adams Otis, "Assembly Seeks to Help Those Injured on 9/11," *The Chief*, September 2, 2005.

18. Final Report of the Special Master for the September 11 Victim Compensation Fund, undated.

19. Gary Shaffer, New York City assistant corporation counsel, supplied these numbers, as the city prepared papers to file in these cases.

20. Anthony DePalma, "Many Who Served on 9/11 Press Fight for Compensation," *New York Times*, May 13, 2004.

21. Ridgely Ochs, "Ailments, Struggles of 9/11 EMT Who Died Not Unique," *Newsday*, September 4, 2005.

CHAPTER 9

1. *Late Show with David Letterman*, CBS transcript, September 17, 2001.

2. Sam Smith, "Furor over WTC Lies," *New York Post*, July 18, 2004. The *Post* article relied on the findings of the New York Law and Justice Project, which posted its full freedom of information response from the New York State Department of Environmental Conservation on its website between January 22, 2002 and June 4, 2004. This posting revealed the unreleased results of the New York City Department of Environmental Protection's tests. These findings are now frequently cited in the litigation against the city and the EPA, the federal agency that coordinated the DEP and all other air and dust sampling.

3. "EPA's Response to the World Trade Center Collapse: Challenges, Successes, and Areas for Improvement," Office of Inspector General, Report No. 2003-P-00012, August 21, 2003.

4. Andrew Schneider, "NY Officials Underestimate Danger," *St. Louis Post-Dispatch*, January 13, 2002.

5. The EPA Inspector General's report is the primary source for much of the asbestos and toxin data here.

EXHIBIT 10

Proposed Res. No. 560-A

Resolution directing the Department of Investigation to conduct an investigation to ascertain the knowledge possessed by mayoral administrations on environmental toxins produced by the September 11, 2001 terrorist attacks on the World Trade Center and to submit a report to the Council thereon.

By Council Members Brewer, Avilés, Restler, Rivera, Gennaro, Ayala, Hanks, Banks, Hudson, De La Rosa, Schulman, Louis, Brannan, Sanchez, Menin, Hanif, Brooks-Powers, Abreu, Farías, Feliz, Marte, Won, Cabán, Bottcher, Vernikov and Ariola

Whereas, According to a summary prepared by the U.S. Department of State in December of 2001, more than 3,000 people died or remained missing as a direct result of the terrorist attacks that occurred in the United States on September 11, 2001; and

Whereas, According to a study conducted in September of 2001 by the U.S. Geological Survey, debris and dust produced by the attacks on the World Trade Center contained toxins such as asbestos, alkaline particles resulting from the dissolution of concrete and glass fibers, and heavy metals; and

Whereas, According to the Mesothelioma Center, many individuals exposed to these toxins in the weeks after the attacks on the World Trade Center developed health issues, with some illnesses such as mesothelioma taking approximately 20 years to develop; and

Whereas, According to the Mesothelioma Center, based on data from the U.S. Centers for Disease Control and Prevention World Trade Center Health Program, the number of deaths from exposure to these toxins now exceeds the death toll from the attacks themselves; and

Whereas, In September of 2021, after the twentieth anniversary of the attacks, U.S. Representative Jerrold Nadler and then-U.S. Representative Carolyn Maloney wrote to then-Mayor Bill de Blasio asking for the release of New York City records from 2001 and 2002 relating to the attacks to allow for a better understanding of the City's knowledge of the scope of the health crisis posed by these toxins, but then-Mayor de Blasio did not respond to the letter; and

Whereas, In May of 2022, U.S. Representative Nadler and then-U.S. Representative Maloney wrote to Mayor Eric Adams requesting the same release of the records, but according to the nonprofit organization 911 Health Watch Inc., New York City's attorneys responded that no information would be released unless federal law was amended to grant full immunity to New York City for claims related to the attacks; and

Whereas, In February of 2023, U.S. Representatives Nadler and Dan Goldman wrote to Mayor Adams requesting a similar release of New York City records, but Mayor Adams sent a response in March of 2023 that the release would only be economically and legally possible with federal funding sources and the passage of federal legislation; and

Whereas, On September 8, 2023, 911 Health Watch Inc. filed a Freedom of Information Law (FOIL) request seeking documents from several New York City agencies relating to the knowledge possessed by the City on the environmental toxins produced by the attacks and the potential harm posed by these toxins, including documents relating to the testing and cleaning of schools in lower Manhattan and the potential evacuation of neighborhoods in Manhattan and Brooklyn in the aftermath of the attacks; and

Whereas, 911 Health Watch Inc. received denials in response to the FOIL request; and

Whereas, On April 5, 2024, U.S. Representatives Nadler and Goldman submitted another letter to Mayor Adams requesting a release of New York City records relating to the attacks, which included a reiterated request for the release of a memo dated October 2001 from then-Deputy Mayor Robert Harding concerning the possibility of many toxin-related tort cases arising in subsequent years in connection with the attacks; and

Whereas, In June of 2024, 911 Health Watch Inc. commenced an Article 78 proceeding in New York State Supreme Court to challenge the New York City Department of Environmental

Protection's denial of the FOIL request and its subsequent affirmation that it has no relevant documents; and

Whereas, To date, there has not been a comprehensive investigation by New York City of the knowledge possessed by mayoral administrations on the dangers of the environmental toxins produced by the September 11, 2001 terrorist attacks on the World Trade Center and when this knowledge accrued; now, therefore, be it

Resolved, That the Council of the City of New York, pursuant to section 803 of the New York City Charter, directs the Department of Investigation to conduct an investigation to ascertain the knowledge possessed by mayoral administrations on environmental toxins produced by the September 11, 2001 terrorist attacks at the World Trade Center and to submit a report to the Council thereon, as follows:

§ 1. Investigation.

- a. The Department of Investigation shall review all of the materials it deems appropriate in the scope of the investigation.
- b. No later than June 30 and December 31 of each year, and until the Department of Investigation submits the required report as further described in section 2 below, the Department of Investigation shall provide an update in writing on the status of the investigation to the Speaker of the New York City Council that includes but is not limited to a summary of the materials reviewed to date, a summary of any difficulties encountered in accessing materials for review, and an expected submission date for the required report.
- c. The Department of Investigation shall conduct the investigation in accordance with applicable laws and rules, including but not limited to laws and rules pertaining to

confidentiality of information or information privileged as attorney-client communications, attorney work product, or material prepared for litigation.

- d. The Department of Investigation shall not conduct the investigation in a manner that would interfere with law enforcement investigations or otherwise conflict with the interests of law enforcement.

§ 2. Report.

- a. The Department of Investigation shall issue a report on its findings under the investigation. Such report shall include, at a minimum:
 - i. An assessment of the knowledge mayoral administrations possessed about environmental toxins produced by the September 11, 2001 attacks on the World Trade Center, including but not limited to knowledge about the types of toxins, knowledge about the length of time the toxins were expected to remain in the environment, and knowledge about the immediate and long-term health impacts of human exposure to these toxins;
 - ii. A timeline of when mayoral administrations became aware of these toxins, when mayoral administrations became aware of the length of time the toxins would remain in the environment, and when mayoral administrations became aware of the immediate and long-term health impacts of human exposure to these toxins; and
 - iii. An analysis of the contrast between the knowledge mayoral administrations possessed on these toxins and the information the administrations conveyed to the public about satisfactory air quality in lower Manhattan and Western Brooklyn after the attacks and the immediate and long-term health impacts of

human exposure to these toxins.

- b. The Department of Investigation shall submit the report required under subdivision a of this section to the Speaker of the New York City Council no later than 2 years after the adoption of this resolution by the Council.

SA/NCC
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5/6/2025 11:45 AM

EXHIBIT 11

COUNCIL MEMBER GALE BREWER Release

   @galeabrewer

DISTRICT OFFICE: 563 Columbus Ave., NY, NY 10024 (212) 873-0282
LEGISLATIVE OFFICE: 250 Broadway, Suite 1875, NY, NY 10007 (212) 788-6975

September 12, 2024

Contact: Sam Goldsmith
(929) 502-5640 | sgoldsmith@council.nyc.gov

BREWER TO INTRODUCE 9/11 TRANSPARENCY LEGISLATION

New York, NY — Council Member Gale A. Brewer is unveiling new legislation today that would finally reveal what city government knew about environmental toxins produced by the September 11, 2001 attacks on the World Trade Center, and when.

The binding resolution would require the Department of Investigation to obtain from city agencies and City Hall all documents with information about the types of toxins, the length of time the toxins were expected to remain in the environment, the immediate and long-term health impacts of human exposure, as well as an analysis of the contrast between the knowledge mayoral administrations possessed and the information they conveyed to the public.

If passed, it would be the first time the City Council has invoked the authority granted by [section 803 of the New York City Charter](#) to direct DOI to conduct an investigation through a binding resolution. The legislation is a direct response to the Adams administration's refusal to release the documents despite requests from [members of Congress](#), [advocates](#), and [the media](#). DOI would be required to complete a comprehensive public report on the findings no later than two years after the adoption of the resolution.

More people have died in the years since the attack than died on the day itself from respiratory issues, cancers, and other diseases caused by the toxins at Ground Zero and the surrounding areas of Manhattan and Brooklyn.

"The remaining residents and survivors of the attacks are deeply interested in what the city knew about the hazards of that period, and when, exactly, they knew it," said **Council Member Gale A. Brewer, Chair of the Committee on Oversight and Investigations**. "The Adams administration has refused to release the documents, stating that potential liability prevents them from doing so. That's not a legitimate reason to keep the files locked away.

"Twenty three years later, the impact of 9/11 continues to be felt by countless first responders, survivors, and residents exposed to toxins, as well as their families," said **City Council Speaker Adrienne Adams**. "Our city government owes New Yorkers transparency about its knowledge on the toxins produced by the attacks.

This resolution takes a crucial step towards requiring disclosure of public health information, which should be considered a basic responsibility of government in a democracy. I thank Council Member Brewer for her leadership in seeking these answers that survivors and their families deserve, as well as our Congressional members who have fought for this information over the course of several mayoral administrations."

"We have sent multiple letters over the last three years calling on the city to release records regarding what the Giuliani and Bloomberg Administrations knew about toxins in the air following 9/11, yet the Adams Administration continues to give us the runaround," said **Congressman Jerrold Nadler**. "Their lack of a meaningful response denies justice to the thousands of New Yorkers and first responders who continue to deal with or have died from health complications due to the air quality following 9/11. New Yorkers deserve the truth — and I urge the City Council to take up this legislation to require the Department of Investigations to conduct a review of the records and disclose what the City knew while claiming it was safe for us to return to Ground Zero."

"In the wake of the worst terrorist attack in American history, survivors and first responders were promised that the air was safe to breathe and that Lower Manhattan was free from toxins," said **Congressman Dan Goldman**. "Now, more than 20 years later, we know those promises were false. The City owes survivors, first responders and everyone in Lower Manhattan full disclosure of the harmful toxins in the area following the 9/11 attack. I am proud to stand with Congressman Nadler and Council Member Brewer to once again call for this information's release. It is critical to closure for families and medical care for survivors, especially those who were children at the time of the attacks. The City must do the right thing, regardless of any financial consequences."

"Thank you to Council Member Brewer for taking on this challenge of finding out what Mayor's office doesn't appear to want the public to see about what the City of New York knew about the dangers of the toxins from 9/11 in the aftermath of the attack," said **Benjamin Chevat, Executive Director of 911 Health Watch**. "Fighting City Hall to get the city to even admit that records exist has been a struggle, but now that we have you on our side, I expect we will get answers."

"Why are the City's September 11th files locked away, hidden from public view, nearly twenty-five years later? What did the then Mayor Giuliani's administration know and when did it learn about the dangers of the toxins at Ground Zero?" asked **Andrew Carboy, 911 Health Watch's pro bono counsel handling the Freedom of Information Requests and Article 78**. "FOIL is an imperfect tool given the that the City is saying they don't have any documents, but Council Member Brewer's innovative use of a provision in the City Charter gives me hope that we will finally get answers. These documents must be released to the public."

"This past week as we approached the 23rd anniversary of September 11th, 2001, the FDNY had the solemn duty to bury the 369th and 370th members of the FDNY to die from their exposure to the toxins of Ground Zero," said **Andrew Ansbro, President of the Uniformed Firefighters Association**. "Those of us that are still alive owe it to the families of the sick and those who have passed to uncover the facts about what the city knew after the attacks, what they knew was there, and who made the decisions that have affected the lives of so many."

"I am eternally grateful to Council Member Brewer for her tenacity in her refusal to let this issue go. Her commitment to those impacted by 9/11 clearly remains as strong as it was 23 years ago," said **Mariama James, 9/11 Survivor advocate, District Leader AD 65C, and founder of the Coalition for a 100% Affordable 5WTC**. "As a 9/11 survivor as well as the daughter of late survivors who succumbed to their 9/11 related

diseases and the mother of youth cohort survivors, I thank her from the bottom of my heart for her efforts. As a District Leader for the 65th Assembly District which formerly included the WTC Complex until the recent redistricting and remains home to many survivors, first responders and a WTC Health Program clinic, I stand with her one hundred percent as she calls upon her colleagues in the City Council to join her in her resolution seeking a full and immediate investigation. Thank you also to those who've requested the documents before her like my former Congressman Jerry Nadler, my current Congressman Dan Goldman and vital organizations like 911 Health Watch and 9/11 Environmental Action."

"I applaud Councilwomen Brewer's bill and her support of the 9/11 WTC Community. Science has shown us that these air monitoring records are key to targeting treatment as well as monitoring for potential disease progression for 9/11 responders and survivors," said **Gary Smiley, WTC Liaison for FDNY EMS Local 2507**. "It is Outrageous that New York City officials continue to fight these vital and impactful testing results from being released and published."

"As advocates who fought for the truth about the toxic smoke and dust released by the 9/11 attacks, we want to thank Council Member Gale Brewer, who has spent her many years in public service fighting for accountability. Now Gale is leading the effort for the City Council to use its new investigatory powers to finally unlock the Giuliani administration's 9/11 records," said **Kimberly Flynn, Director of 9/11 Environmental Action**. "New Yorkers need to know what exactly the city knew after the towers' collapse and how the city, in lockstep with the EPA, failed to protect the health of its people and the responders who came from everywhere to the rescue. After 9/11, having the truth would have made an enormous difference. Today, the truth can still accomplish so much, from strengthening support for the care provided by the WTC Health Program to developing lessons learned that would better protect New Yorkers in the wake of future disasters."

"Those that responded to 9/11 as well as the community that was impacted by it should know the truth about what was known about the toxins at Ground Zero," said **James Slevin, 1st District Vice President, International Association of Fire Fighters, and 911 Health Watch Board Member**. "To many of my fellow responders and the residents and area workers are still living and in too many cases dying because of decisions that were made at that time and that is why Councilmember Brewer's efforts are so important."

"I was there 23 years ago, and it is way past time that we learn the truth about what the City knew," said **Thomas Hart, President International Union of Operating Engineers Local 94**. "Thank you, Council Member Brewer, for taking this action on behalf of my members."

###

EXHIBIT 12

Representatives Nadler and Goldman Applaud NYC Council for Forcing City to Finally Release the Truth About 9/11 Air Toxins

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Washington, July 15, 2025

Today, Congressman Jerrold Nadler (NY-12) and Congressman Dan Goldman (NY-10) made the following statement in response to the New York City Council vote on releasing 9/11 related documents:

"We commend the New York City Council for passing Resolution 560, finally forcing the City to release records about what officials knew about the toxic air New Yorkers were breathing after 9/11 while they were telling the public it was safe to return to the City.

"For years, we have demanded transparency from the Adams Administration about what the Giuliani and Bloomberg Administrations knew about toxins in the air following 9/11 and when they knew it. We sent multiple letters to the Adams Administration requesting the release of critical records, yet each time, they denied our requests. Their lack of a meaningful response denied justice to the thousands of New Yorkers and first responders who continue to deal with or have died from health complications due to the air quality following 9/11.

"With the passage of Resolution 560, New York City's Department of Investigation has the power to discover exactly what Mayor Giuliani knew about the toxins in the air after 9/11 while claiming it was safe for New Yorkers to return. These records could provide long overdue accountability for potentially devastating decisions that cost thousands of lives.

"New Yorkers deserve the truth. We're finally about to get some answers."

EXHIBIT 13

From: Andrew Carboy <acarboy@carboylaw.com>
Sent: Tuesday, December 23, 2025 9:14:42 PM
To: ServiceECF (Law) <serviceecf@law.nyc.gov>; FOILAppeal@cityhall.nyc.gov <foilappeal@cityhall.nyc.gov>; FOIL@cityhall.nyc.gov <foil@cityhall.nyc.gov>
Subject: Administrative Appeal FOIL Request #FOIL-2023-002-00733

Please be advised that this administrative appeal of a FOIL denial was served via email on the FOIL Appeal and FOIL Officers of the Mayor's Office on December 12, 2025.

The ten (10) days to respond has elapsed, and we deem the administrative appeal denied.

Law Offices of Andrew J. Carboy LLC
One Liberty Plaza, Floor 23
New York, NY 10006
212 520 7565
Acarboy@carboylaw.com

From: Andrew Carboy <acarboy@carboylaw.com>
Sent: Friday, December 12, 2025 4:02:28 PM
To: FOILAppeal@cityhall.nyc.gov <FOILAppeal@cityhall.nyc.gov>; FOIL@cityhall.nyc.gov <FOIL@cityhall.nyc.gov>
Cc: Matthew McCauley <mmccauley@thmlp.com>
Subject: Administrative Appeal FOIL Request #FOIL-2023-002-00733



Office of Mayor FOIL Appeal with Exhibits.pdf
6 MB



Share as a link. Anyone on the internet with this link can access.

Yes



From: Andrew Carboy <acarboy@carboylaw.com>

Sent: Friday, December 12, 2025 4:02:28 PM

To: FOILAppeal@cityhall.nyc.gov <FOILAppeal@cityhall.nyc.gov>; FOIL@cityhall.nyc.gov <FOIL@cityhall.nyc.gov>

Cc: Matthew McCauley <mmccauley@thmlp.com>

Subject: Administrative [Appeal FOIL](#) Request #FOIL-2023-002-00733

Law Offices of Andrew J. Carboy LLC

One Liberty Plaza, Floor 23

New York, NY 10006

212 520 7565

[Acarboy@carboylaw.com](mailto:acarboy@carboylaw.com)

First Name

andrew

26 characters remaining

Last Name

carboy

58 characters remaining

Email

acarboy@carboylaw.com

Subject

Inquiry about FOIL-2023-002-00733

Message

December 23, 2025

Please be advised that we appealed the constructive denial of this FOIL request on December 12, 2025. The appeal was sent to FOILAppeal@cityhall.nyc.gov <foilappeal@cityhall.nyc.gov>; FOIL@cityhall.nyc.gov <foil@cityhall.nyc.gov>. Ten (10) days have elapsed, and we deem the appeal denied.

Andrew Carboy

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Send

Request a

FOIL-2023

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/19/2025 at

/12/2025 at

/18/2025 at

/18/2024 at 2:4

/20/2024 at

From: ServiceECF (Law) <ServiceECF@law.nyc.gov>

Sent: Tuesday, December 23, 2025 9:18:33 PM

To: Andrew Carboy <acarboy@carboylaw.com>

Subject: Proof of service receipt

This email confirms receipt of email and constitutes proof of service at the Office of the Corporation Counsel for the City of New York. Please retain it for your records. Please note that the Office of the Corporation Counsel has accepted service only for the City of New York and entities for which the Law Department is authorized to accept service, including the Mayor and City Agency Heads named in their official capacities. Service of process on any individually named parties has not been accepted.

Documents must be submitted as attachments; linked documents will not be accessed and will not be considered as proper service on the New York City Law Department. All documents submitted after 5:00PM will be considered served on the next business day.

Please be reminded that the Law Department Service Window remains open to accept service of papers on Tuesdays and Thursdays from 9:00 am until 5:00 pm.

Service of process on individuals should continue to proceed in a manner required by applicable law.

This mailbox is only monitored for service. Please call (212) 356-1140 with any questions or concerns.

Law Offices of Andrew J. Carboy LLC

One Liberty Plaza, Floor 23
New York, New York 10006
(212) 520-7565

Turken Heath & McCauley LLP

84 Business Park Drive, Suite 307
Armonk, New York 10504
(914) 363-6355

December 12, 2025

Records Access Officer

Christian Rivera
Office of the Mayor/City of New York
FOIL@cityhall.nyc.gov

Records Appeals Officer

Jeffrey Lowell
Office of the Mayor/City of New York
FOILAppeal@cityhall.nyc.gov

Re: Appeal of Denial of Freedom of Information Request
Subject Matter: Preparation For/Response to
Collapse of World Trade Center, September 11, 2001
Request Number Office of Mayor: FOIL-2023-002-00733

Dear Records Access Officer Rivera and Appeals Officer Lowell:

We represent Phil Alvarez on behalf of his brother, NYPD Detective Luis G. Alvarez, deceased; Benjamin Chevat, Director of 9/11 Health Watch; Karen Klingon, Executrix of the Estate of Robert Klingon (resident of lower Manhattan); Yvonne Baisley, Executrix of the Estate of FDNY Firefighter Robert Fitzgibbon; and Charlotte Berwind, Executrix of the Estate of volunteer firefighter Charles E. Flickinger, Jr.

Pursuant to the Freedom of Information Law (“FOIL”), on September 8, 2023, our clients requested public records from the Office of the Mayor (“Mayor’s Office) concerning the response of the City of New York (“City”) to the September 11, 2001 collapse of the World Trade Center, along with historical documents and disaster preparation materials. **(Exhibit 1)** These public records concern risk assessments made by the City for the reopening of lower Manhattan and public schools in September 2001, and the City’s knowledge of airborne toxic hazards, existing at that time. We also requested documents explaining why the Mayor sought liability protection from toxic exposure claims while the City assured the public that the air was safe.

The Mayor’s Office extended its own time to respond to the request on more than ten (10) occasions. **(Exhibit 3)** By granting itself these FOIL postponements, the Mayor’s Office delayed responding over a span encompassing three September 11th anniversaries. We do not yet have a single document from the Mayor.

The following chart summarizes the delays of the Mayor’s Office:

EVENT	DATE
Original 911/Health Watch FOIL Request to Mayor's Office	September 8, 2023
Mayor's Office promises response on or about October 30, 2023	September 8, 2023
Mayor's Office grants itself extension to December 29, 2023	November 1, 2023
Mayor's Office grants itself extension to March 27, 2024	January 2, 2024
Mayor's Office grants itself extension to June 21, 2024	March 28, 2024
Mayor's Office grants itself extension to August 18, 2024	June 26, 2024
Mayor's Office grants itself extension to November 15, 2024	August 20, 2024
Mayor's Office grants itself extension to February 13, 2025	November 28, 2024
Mayor's Office grants itself extension to May 9, 2025	February 18, 2025
Mayor's Office grants itself extension to August 14, 2025	May 12, 2025
Mayor's Office grants itself extension to November 28, 2025	August 19, 2025
Mayor's Office grants itself extension to March 19, 2026	December 1, 2025

(See **Exhibit 3** for all communications from Mayor’s Office concerning the FOIL request)

This serial delay is unreasonable, violating the letter and spirit of New York’s public record access laws, as explained below. Accordingly, we deem the FOIL request denied, and now appeal the constructive denial.

The Subject FOIL Request

Pursuant to the Freedom of Information Law, on September 8, 2023, we requested various records from the Mayor’s Office concerning the response of the City to the September 11th attacks, along with historical records and disaster preparation materials. (**Exhibit 1**) In a good faith effort to expedite responses, we edited and reduced our FOIL request (**Exhibit 2**) due to the parallel actions of the New York City Council and the Department of Investigation (“DOI”).

On July 14, 2025, the New York City Council enacted Resolution 560-A (“Resolution 560-A”), directing the DOI, one of the country’s premier investigative agencies, to “conduct an investigation to ascertain the knowledge possessed by mayoral administrations on environmental toxins produced by the September 11, 2001 terrorist attacks on the World Trade Center and to submit a report to the Council thereon.” (**Exhibit 10: Resolution 560-A and Record of Passage**)

The unwillingness of the Mayor’s Office to respond to our FOIL request is among the examples in the supporting legislative record of the City’s resistance to disclosing September 11th information. As Resolution 560-A sets forth, reciting the work of 9/11 Health Watch to access the City’s public records:

Whereas, On September 8, 2023, 911 Health Watch Inc. filed a Freedom of Information Law (FOIL) request seeking documents from several New York City agencies relating to the knowledge possessed by the City on the environmental toxins produced by the attacks and the potential harm posed by these toxins, including documents relating to the testing and cleaning of schools in lower Manhattan and the potential evacuation of neighborhoods in Manhattan and Brooklyn in the aftermath of the attacks; and

Whereas, 911 Health Watch Inc. received denials in response to the FOIL request; and

Whereas, To date, there has not been a comprehensive investigation by New York City of the knowledge possessed by mayoral administrations on the dangers of the environmental toxins produced by the September 11, 2001 terrorist attacks on the World Trade Center and when this knowledge accrued; now, therefore, be it:

*Resolved, That the Council of the City of New York, pursuant to section 803 of the New York City Charter, directs the **Department of Investigation to conduct an investigation to ascertain the knowledge possessed by mayoral administrations on environmental toxins produced by the September 11, 2001 terrorist attacks at the World Trade Center and to submit a report to the Council thereon. (Exhibit 10)** (emphasis added)*

As sponsoring Council member Gale Brewer described, “*the legislation is a direct response to the Adams administration’s refusal to release the documents despite requests from members of Congress, advocates, and the media.*” (Exhibit 11)(emphasis added)

As United States Representatives Jerrold Nadler and Dan Goldman explained, following the enactment of Resolution 560-A, multiple mayoral administrations resisted release of the City’s September 11th archive, beginning with Mayor de Blasio (**Exhibit 7** at p. 2: 2021 request to **de Blasio Administration**):

For years, we have demanded transparency from the **Adams Administration** about what the **Giuliani** and **Bloomberg Administrations** knew about toxins in the air following 9/11 and when they knew it. We sent multiple letters to the **Adams Administration** requesting the release of critical records, yet each time, they denied our requests. Their lack of a meaningful response denied justice to the thousands of New Yorkers and first responders who continue to deal with or have died from health complications due to the air quality following 9/11.

With the passage of Resolution 560, New York City's Department of Investigation has the power to discover exactly what Mayor Giuliani knew about the toxins in the air after 9/11 while claiming it was safe for New Yorkers to return.

These records could provide long overdue accountability for potentially devastating decisions that cost thousands of lives. New Yorkers deserve the truth. We're finally about to get some answers. (**Exhibit 12:** July 15, 2025 Statement of Representatives Nadler and Goldman on passage of Resolution 560-A: "*Representatives Nadler and Goldman Applaud NYC Council for Forcing City to Finally Release the Truth About 9/11 Air Toxins*")

We are not withdrawing our FOIL request; however, in an effort to streamline and expedite the response of the Mayor's Office, in view of the DOI investigation, we edited and reduced it, as set forth at **Exhibit 2**.

As modified/amended, we withdraw requests 3, 4, 5b. and 6 through 28. We seek responses to the following requests, only (original items at request numbers 1, 2 and 5a, c, d, and e):

1. October 2001 memorandum from Deputy Mayor Robert M. Harding referenced in May 14, 2017 New York Times article entitled, "*Ground Zero Illnesses Clouding Giuliani's Legacy.*" ("Harding memo")
2. Underlying documents, studies, reports, assessments, memoranda, factual bases and other written information that informed the Harding memo's estimate or projection of anticipated future claims from WTC toxic exposure.
5. With respect to the following provision of the *Air Transportation Safety and System Stabilization Act of 2001*, Pub. L. No. 107-42, 115 Stat. 230 (2001): **(3) Limitations on liability for New York City.**--*Liability for all claims, whether for compensatory or punitive damages or for contribution or indemnity arising from the terrorist-related aircraft crashes of September 11, 2001, against the City of New York shall not exceed the greater of the city's insurance coverage or \$350,000,000. 49 U.S.C.A. § 40101*
 - a. Written communications, dating from September, October and November 2001, such as correspondence, email, and memoranda, with all attachments, concerning limitations on liability for the City of New York ("City"), to the following individuals and offices:
 - i. The White House and the Office of the Executive;
 - ii. Any United States Senator and their office;
 - iii. Any Committee of the United States Senate and/or its staff;
 - iv. Any member of the U.S. House of Representatives or their staff;
 - v. The United States Justice Department; and
 - vi. United States Environmental Protection Agency.

c. Documents setting forth the names of consultants and consulting firms, lobbyists and lobbying firms, that worked with the City in the effort to secure the limitations on liability, referenced above.

d. Documents setting forth the amount of compensation issued/paid by the City to the consultants and consulting firms, lobbyists and lobbying firms identified in response to request c., above.

e. Documents setting forth: the number of meetings (taking place in September, October and November 2001), dates of meetings, location of meetings, identity of those in attendance, concerning the efforts to secure the limitations on liability, set forth above, along with summaries of meetings and copies of the written materials reviewed at each meeting.

Requests numbered 3, 4, 5b. and 6 through 28 (**Exhibit 1**) are withdrawn.

Even so, the Mayor's Office is unable or unwilling to respond to our abridged request (**Exhibit 2**), notwithstanding renewed attention from the City Council, Congress, and, of course, the DOI investigation.

Without Justification, the Mayor's Office Postpones Responding Since 2023

Rather than respond by producing *any* documents for review (not one page, to date), the Mayor's Office granted itself a series of postponements (known as "extensions" in FOIL parlance) spanning more than *two years* and three September 11th anniversaries. (**Exhibit 3**)

The Mayor's Office announced the postponements, ten (10) in total, via the City's FOIL portal, using the following template language:

The Mayor's Office (OOM) has **extended** the time to respond to your FOIL request FOIL-2023-002-00733 for the following reasons:

You can expect a response on or about Thursday, March 19, 2026.

Additional Information: Due to the volume of requests that we have received, we are extending the due date on this request.

(Exhibit 3: Mayor's Office December 1, 2025 FOIL extension, its tenth [10th])

Other than citing a volume of other, unrelated FOIL requests, the Mayor's Office provides zero justification for the delay. This cursory explanation, devoid of detail, is not an appropriate basis for a single FOIL response extension, let alone ten (10) of them.

The two-plus year delay in responding is unreasonable. The Freedom of Information Law itself directs the response of the Mayor's Office within five (5) business days of the request, not thirty (30) months later (September 2023 to March 2026) or even longer:

3. (a) Each entity subject to the provisions of this article, within **five business days** of the receipt of a written request for a record reasonably described, shall make such record available to the person requesting it, deny such request in writing or furnish a written acknowledgement of the receipt of such request and a statement of the approximate date, which shall be reasonable under the circumstances of the request, when such request will be granted or denied, including, where appropriate, a statement that access to the record will be determined in accordance with subdivision five of this section. **N.Y. Pub. Off. Law § 89** (McKinney)(emphasis added)

If the five-day window is too brief, the FOIL statute requires the Mayor's Office to provide a statement of the approximate date for production, one "*reasonable under the circumstances.*" Id.

By designating ten different future dates for a response, and then failing to meet any of these self-extended deadlines over the course of more than two (2) years, the Mayor's Office has provided no semblance of an actual timeframe or date for document production, a violation of FOIL.

None of the adjourned dates has been demonstrated to be reasonable, realistic or reliable. The Mayor's Office simply disregards the next date that it selected, and hits "reset," generating an additional, future response point. With the latest "reset" to an illusory March 2026 date, the outgoing Mayor punts the ultimate responsibility for release of the City's September 11th archive to Mayor-elect Mamdani.¹ These years of delay are particularly troubling given the recent pledge by his office that Mayor Adams remains "***dedicated to getting 9/11 victims and their families the answers they need.***" (Source: ABC News, November 25, 2025: "*FDNY Members Want Answers after Discovery of Documents about 9/11 Toxins,*" covering the City DEP's belated "discovery" of 68 boxes of records responsive to 9/11 Health Watch's FOIL request, after years of denying their existence and requesting dismissal of the ensuing Article 78 proceeding) <https://abc7ny.com/post/fdny-union-leaders-demand-answers-discovery-documents-911-toxins-ground-zero/18202801/>

Accordingly, the Mayor's Office constructively denied our clients' FOIL request.

New York State Supreme Court condemns this precise type of conduct in responding to FOIL requests, even when the extensions span a far shorter period of time. This is particularly so

¹ This appeal is filed within thirty (30) days of this constructive denial.

when the subject matter, as here, is of great public importance, the request is specific, and the data is known to be stored and organized. See, e.g., Empire Ctr. for Pub. Pol'y v. New York State Dep't of Health, 150 N.Y.S.3d 497, 499 (N.Y. Sup. Ct. 2021)(*Two-month* delay caused by New York State's self-extension deemed unreasonable as petitioner's request for Covid-19 nursing home death records was narrowly tailored and data was organized/compiled, previously)

If records are clearly available to the public under the Freedom of Information Law, or if they are readily retrievable, there may be no basis for a lengthy delay in disclosure. (**Exhibit 4:** N.Y. State Commission on Open Government, 1998 Advisory Opinion 10833)

Although FOIL does allow a government agency to extend response times, unilaterally, this privilege is limited to appropriate circumstances, absent here. The postponements are not to be indefinite, and the Mayor's Office abuses the extensions in this instance.

Accordingly, it has long been advised that when an agency is unable to deny or provide access to records within five business days, it must provide a written response indicating either that it will respond within the next twenty business days, or that it is unable to respond until a certain date, providing both the date and the reasons for requiring additional time. Although we recognize that there are occasions when an agency will require an extension of time beyond that which it initially predicted, ***there is no provision in the statute for repeated extensions.*** (**Exhibit 5:** N.Y. State Commission on Open Government, 2016 Advisory Opinion 19372)(emphasis added)

In McKenna v. The City of New York, the New York Supreme Court deemed unreasonable the City's six (6) self-granted extensions. Unlike the Mayor's Office, granting itself **2.5 years** to respond (through 10 extensions), the City in McKenna sought only **six months** of additional time. Yet, even that shorter period, one-fifth of the time at issue in this matter, violated FOIL. (**Exhibit 8:** 2024 NY Slip Op 33137(U), August 26, 2024) "*From March 2, 2022, through September 21, 2022, Respondent extended the expected response date six times.*")

As *Reinvent Albany* reported earlier in 2025, New York City responds to 84% of FOIL requests, annually. That 16% are not responded to within one year is deemed a failure by the non-profit government watchdog. ([Report: New York City Government Flouting Freedom of Information Law - Reinvent Albany](#)) What would *Reinvent Albany* make of a government records request, concerning a matter of paramount public interest, taking more than 2.5 years to address?

Indicia that the Mayor's Office Played a Leading Role in the September 11th Response and Organized the Requested Information more than Two Decades Ago

The September 11th attack and collapse of the World Trade Center remain the most significant events in New York City history.

As is widely known, the Mayor's Office played a lead role in the response. [See, e.g., In re World Trade Ctr. Disaster Site Litig., 456 F. Supp. 2d 520, 527, 2006 WL 2948819 (S.D.N.Y. 2006), *aff'd in part, appeal dismissed in part*, 521 F.3d 169, 2008 WL 783386 (2d Cir. 2008): "*the Mayor of the City of New York... issued a Mayoral Order on September 11, 2001, proclaiming a local state of emergency based on the danger to public safety posed by the attacks*" and directing local agencies "*to take whatever steps are necessary to preserve the public safety and...to protect the security, well-being and health of the residents of the City*"]

The Mayor, too, worked to secure liability protections for the City in the aftermath. As a United States District Court observed, "*a November 1, 2001 letter sent by then-Mayor Giuliani to members of the New York congressional delegation urg[ed] adoption of amendments that would limit the City's liability. ... the proposed amendment would alleviate only "part" of "the City's potential liability exposure."*" In re WTC Disaster Site, 414 F.3d 352, 379, 2005 WL 1649041 (2d Cir. 2005)

Deputy Mayor Robert Harding received a memo entitled Legislative Alternatives to Limit the City's Liability relating to 9/11/01. According to the memo, as of Fall 2001, "*the Law Department was estimating 35,000 potential 9/11 plaintiffs against the City...the memo urged the city to push Congress to create a fund to cover the City's liability similar to the 9/11 Victim Compensation Fund it had just created for the airline industry.*" (**Exhibit 9: Grand Illusion**, Barret and Collins, 2006, at p. 259, chapter 8, footnote 13)

For these reasons, our FOIL request sought information concerning the City's lobbying and legislative efforts to eliminate/reduce its potential liabilities for toxic exposure claims, including the so-called "Harding memo" and its communications with federal agencies, Congress, and the White House. (**Exhibits 1 and 2**)

The Mayor's myriad pronouncements as to air quality and safety in lower Manhattan are well-known to anyone who heard or read them in September 2001. We sought the bases for these proclamations and the decision to reopen public schools and businesses, undertaken simultaneously with the City's aggressive lobbying for protection from lawsuits arising from exposure to the toxic air, downtown. (**Exhibits 1 and 2**)

We demonstrate that the requested materials remain readily available.

The Mayor's Office, like all City agencies and departments received a special 2002 directive from the City Law Department's "World Trade Center Unit," a task force addressing

September 11th-related issues.² (**Exhibit 6**) Without any qualification or limitation, the World Trade Center Unit instructed the Mayor's Office to identify and preserve all documents concerning its response to the WTC collapse. In 2002, the World Trade Center Unit advised the Mayor's Office, as follows:

*These original World Trade Center documents have been collected and scanned by the New York City Law Department. **DO NOT DISPOSE OF THESE DOCUMENTS:** they must be preserved to serve as evidence in the event future WTC-related legal actions are brought against the City. (**Exhibit 6** at 2002 Preservation Letter)(Original emphasis)*

In accordance with the Law Department's directive, the Mayor's Office would have compiled and organized World Trade Center documents. Thereafter, upon scanning by the Law Department, the documents were returned with the admonition for the Mayor's Office to preserve them, indefinitely.

There is further and more contemporaneous indication that the documents exist, are organized, accessible and easily provided. The Mayor's Office cannot argue that it no longer has the documents or that the documents do not exist, the precise tactic employed by the City Department of Environmental Protection to fight our FOIL request as to it. ([ViewDocument](#))

Communications with New York's Congressional delegation, dating from 2021, also confirm that the requested materials are catalogued and set aside. Annexed as **Exhibit 7** are a series of letters between Honorable Jerrold Nadler, Honorable Dan Goldman, and Honorable Caroline Maloney and the Office of the Mayor. Since 2021, the Representatives have sought previously unreleased documents, from City agencies, concerning the response to the September 11th attacks, writing and meeting with the Mayor's Office in this effort. To date, the City has not responded in any meaningful way to these requests from the elected officials. On March 22, 2023, *Mayor Adams wrote to the members of Congress, acknowledging that such previously unreleased documents existed, but advising that they would not be disclosed.* The Mayor cited "litigation risks" as a barrier. The Mayor requested both federal funding and additional federal protections for the City before the documents would be released. *Id.* At no point in the correspondence to the Congressional delegation did City Hall cite a specific FOIL exemption enabling it to withhold the documents. Further, "litigation risks" are not recognized as a basis to deny Petitioners' FOIL request or those of members of Congress.

Accordingly, it is clear that the current Mayor's Office is not only aware of the existence of specific and responsive records, it has set these records aside, siloed them, and continues to resist their disclosure.

² At inception, the World Trade Center Unit had twenty-five attorneys, seventeen support members, including private investigators, and a large complement of legal assistants and data entry clerks. The unit operated for more than one decade. (**Exhibit 6** at press release)

We respectfully request that the FOIL denials be reversed in their entirety and the subject FOIL request (**Exhibit 2**) be granted, immediately and in full.

Very truly yours,

A handwritten signature in cursive script that reads "Andrew J. Carboy". The signature is written in black ink and has a long, sweeping tail that extends to the right.

Andrew J. Carboy

A handwritten signature in cursive script that reads "Matthew McCauley". The signature is written in black ink and is more compact than the one above.

Matthew McCauley

EXHIBIT 14



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

December 24, 2025

Re: FOIL-2023-002-00733 Appeal Decision

Dear Andrew Carboy:

This letter is in response to your December 12, 2025, e-mail appealing the Mayor's Office response to your request received on September 8, 2023, under the Freedom of Information Law, Public Officers Law § 84 *et seq.* ("FOIL"). Your original request is attached.

The Records Access Officer (RAO) acknowledged your request on September 8, 2023, and subsequently extended the projected response date. On September 7, 2025, you amended your request to only include sections 1, 2, 5(a)(i-vi), and 5(c-e). On December 12, 2025, you appealed on the basis that the RAO's actions to date constitute a constructive denial.

The Office of the Mayor takes seriously the importance of disclosing information to the public consistent with the law. Postponements are certainly to be avoided whenever possible; at times, however, they are necessary particularly when dealing with requests that require the careful review of a large number of documents. Reviewing records to determine if they are responsive and if they may be disclosed pursuant to the Public Officers Law § 87 is a time and labor-intensive process and every effort is made to respond to each request in as timely a manner as is possible.

I find that your request has not been constructively denied. Courts have repeatedly held that there are no absolute deadlines under FOIL. See *Matter of New York Times Co. v City of New York Police Dept.*, 103 A.D.3d 405, 407 (N.Y. App. Div. 2013) ("Public Officers Law § 89 (3) mandates no time period for denying or granting a FOIL request, and rules and regulations purporting to establish an absolute time period have been held invalid."); *Legal Aid Soc'y v. N.Y.C. Police Dep't*, 274 A.D.2d 207, 215 (N.Y. App. Div. 2000) ("section 89 (3) mandates no time period for disclosing records under FOIL"); *Matter of Gajadhar v. N.Y. Police Dep't*, 61 Misc. 3d 1218(A) (N.Y. Sup. Ct. 2018); FOIL-AO-14913 (Sept. 24, 2004) ("[T]here is no precise time period within which an agency must grant or deny access to records.").

Here, your request has multiple parts and requests records from over 20 years ago. These records require detailed searches and thorough review.

Accordingly, your appeal is denied. However, I am remanding the request to the RAO to produce any responsive records, subject to any applicable privileges or exemptions, by February 27, 2026.

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

Sincerely,

Jeffrey Lowell
Records Appeals Officer

Law Offices of Andrew J. Carboy LLC

One Liberty Plaza, Floor 23
New York, New York 10006
(212) 520-7565

Turken Heath & McCauley LLP

84 Business Park Drive, Suite 307
Armonk, New York 10504
(914) 363-6355

September 8, 2023

FREEDOM OF INFORMATION LAW REQUEST TO CITY OF NEW YORK

By FOIL Portal:

New York City Department of Design and Construction;
New York City Department of Environmental Protection;
New York City Department of Health;
Office of the Mayor;
New York City Law Department;
New York City Office of Emergency Management; and
New York City Council

By U.S. Mail and Fax/Email:

New York City Federal Affairs Office
Attn: Crystal Price, Director
601 New Jersey Avenue, Suite 410
Washington D.C. 20001
Fax: 202-624-5926

Mayor's Office of Intergovernmental Affairs
Attn: Roberto Perez, Director
City Hall, 2nd Floor
New York, New York 10007
Fax: 212-788-9711

City Council
Danielle Barbato, FOIL Officer
Office of the General Counsel
250 Broadway, 15th Floor
New York, New York 10007
dbarbato@council.nyc.gov

We, Benjamin Chevat, Director of 9/11 Health Watch; Karen Klingon, Executrix of the Estate of Robert Klingon (resident of lower Manhattan); Yvonne Baisley, Executrix of the Estate of FDNY Firefighter Robert Fitzgibbon; Phil Alvarez on behalf of his brother,

NYPD Detective Luis G. Alvarez, deceased; and Charlotte Berwind, Executrix of the Estate of volunteer firefighter Charles E. Flickinger, Jr. .

through our attorneys, Law Offices of Andrew J. Carboy LLC and Turken Heath & McCauley LLP, seek immediate release of the following public information through the New York Freedom of Information Law:

1. October 2001 memorandum from Deputy Mayor Robert M. Harding referenced in May 14, 2017 New York Times article entitled, “*Ground Zero Illnesses Clouding Giuliani’s Legacy.*” (“Harding memo”)
2. Underlying documents, studies, reports, assessments, memoranda, factual bases and other written information that informed the Harding memo’s estimate or projection of anticipated future claims from WTC toxic exposure.
3. All documents setting forth the names and titles of recipients of the Harding memo in 2001 and 2002.
4. All documents setting forth the manner in which the Harding memo was communicated and the reasons for its communication in 2001 and 2002 (e.g., litigation; lobbying; inter-government communication; intra-government communication; Freedom of Information request).
5. With respect to the following provision of the *Air Transportation Safety and System Stabilization Act of 2001*, Pub. L. No. 107-42, 115 Stat. 230 (2001):

(3) Limitations on liability for New York City.--Liability for all claims, whether for compensatory or punitive damages or for contribution or indemnity arising from the terrorist-related aircraft crashes of September 11, 2001, against the City of New York shall not exceed the greater of the city's insurance coverage or \$350,000,000. 49 U.S.C.A. § 40101

- a. Written communications, dating from September, October and November 2001, such as correspondence, email, and memoranda, with all attachments, concerning limitations on liability for the City of New York (“City”), to the following individuals and offices:
 - i. The White House and the Office of the Executive;
 - ii. Any United States Senator and their office;
 - iii. Any Committee of the United States Senate and/or its staff;

- iv. Any member of the U.S. House of Representatives or their staff;
 - v. The United States Justice Department; and
 - vi. United States Environmental Protection Agency.
- b. All background and briefing materials, including assessments, surveys, studies, projections, risk projections, environmental testing data, and toxicological data, including from City agencies provided to Mayor Rudolph W. Giuliani in September, October and November 2001, and Mayor-elect Michael R. Bloomberg, in November 2001, with respect to proposed limitations on liability for the City in connection with efforts to secure such limitations.
 - c. Documents setting forth the names of consultants and consulting firms, lobbyists and lobbying firms, that worked with the City in the effort to secure the limitations on liability, referenced above.
 - d. Documents setting forth the amount of compensation issued/paid by the City to the consultants and consulting firms, lobbyists and lobbying firms identified in response to request c., above.
 - e. Documents setting forth: the number of meetings (taking place in September, October and November 2001), dates of meetings, location of meetings, identity of those in attendance, concerning the efforts to secure the limitations on liability, set forth above, along with summaries of meetings and copies of the written materials reviewed at each meeting.
6. With respect to daily public briefings held by Mayor Rudolph W. Giuliani (“Mayor”) in September, October and November 2001:
- a. Written materials for the substance of all of the briefings, provided in advance to the Mayor, such as texts, talking points, slide decks, graphs, and charts;
 - b. All draft briefings; and
 - c. All commentary provided to the Mayor about proposed briefings, and identifying the sender and/or commentator.
7. With respect to discussions, deliberations and/or debate concerning recent (2018-2023) requests for release of all City September 11th/World Trade Center disaster records to the public (e.g., February 16, 2023 letter request of Reps. Nadler and Goldman):
- a. All writings setting forth reasons as to why the records should not be released;

- b. All writings setting forth reasons as to why the records should be released; and
 - c. All assessments as to the “litigation risks” posed by release of some or all of the records.
8. Any memos, communications with respect to the reporting of New York Daily News columnist Juan Gonzalez from September, October, November or December of 2001.
 9. Inventories, pre-dating September 11, 2001, of hazardous substances contained in WTC buildings, including but not limited to materials found in x-ray equipment, materials found in radiation oncology equipment, diesel fuel stored under WTC 7, polychlorinated biphenyls, asbestos, other radioactive materials, carcinogens, and materials known to have neurotoxic effects if released and/or subject to burning.
 10. All exercises, projections, estimates, simulations, analyses, studies and reports, whether obtained by, created by or created at the direction of your agency/department from February 26, 1993 through September 10, 2001 concerning: a terrorist attack or potential terrorist attack on the World Trade Center Complex, disaster and/or rescue responses to such an attack; hazards resulting from such an attack, including release of contaminants/toxins from such an attack, including those resulting from structure collapses; mitigation measures considered to reduce hazards posed by release of contaminants/toxins from such an attack, including those resulting from structure collapses; evacuation protocol for surrounding neighborhoods and other geographic locations potentially or actually affected by the release of contaminants; and air quality issues and potential problems resulting from such an attack, including those resulting from structure collapses.
 11. From February 26, 1993 through September 10, 2001: all exercises, simulations, directives, memoranda, reports and analyses concerning the aftermath of a potential terrorist attack on the World Trade Center, whether obtained by, created by or created at the direction of your agency/department.
 12. All communications to and from the Port Authority of New York and New Jersey, such as letters, memoranda, reports, status updates and other writings (be they paper or electronic) dating from February 26, 1993 through September 10, 2001, concerning: A) the removal of asbestos containing materials (“ACM”) from the World Trade Center; B) recommendations for removal of ACM from the World Trade Center; C) hazards posed by the presence of ACM in the World Trade Center in the event of a disaster, such as a terrorist attack; and D) the significance of the February 26, 1993 World Trade Center bombing with respect to efforts to remove ACM.
 13. All notes, memoranda and other writings created by the City Department of Design and Construction concerning information conveyed by the Port Authority of New York and New Jersey that subsequent to the 1993 World Trade Center bombing, a program to remove ACM

was initiated.

14. All notes, memoranda and other writings created by your agency/department concerning information conveyed by the Port Authority of New York and New Jersey that subsequent to the 1993 World Trade Center bombing, a program to remove ACM was initiated.
15. Documents setting forth the progress of efforts to remove ACM from the World Trade Center for the time period beginning February 26, 1993 and concluding on September 10, 2001.
16. Results of dust and air testing conducted outdoors and indoors at the World Trade Center between February 26, 1993 and August 1, 1993 whether conducted at the direction of your agency/department or obtained by your agency/department.
17. All communications, draft plans, draft directives, evaluations and assessments concerning the potential evacuation and duration of evacuation of neighborhoods in Brooklyn, New York following the collapse of the World Trade Center on September 11, 2001.
18. All communications, draft plans, draft directives, evaluations and assessments concerning the potential evacuation and duration of evacuation of neighborhoods in New York, New York following the collapse of the World Trade Center on September 11, 2001.
19. All communications between the City of New York, including the Law Department, the Mayor's Office, and other offices, and the World Trade Center Captive Insurance Company from 2017 to date, concerning:
 - a. Winding down and/or dissolution of the World Trade Center Captive Insurance Company;
 - b. The transfer of the funds held/invested by the World Trade Center Captive Insurance Company to the World Trade Center Health Program; and
 - c. Recommendations concerning possible dissolution of the World Trade Center Captive Insurance Company, whether supportive of dissolution or opposed to dissolution.
20. All communications to and from the Mayor's Office concerning future plans for the use of funds held/invested by the World Trade Center Captive Insurance Company in the event of a winding down or dissolution of the World Trade Center Captive Insurance Company.
21. All communications to and from the Law Department of the City of New York concerning future plans for the use of funds held/invested by the World Trade Center Captive Insurance

Company.

22. Draft legislation for additional federal protection of the City of New York from September 11th and World Trade Center-exposure related lawsuits, as referenced in the September 10, 2022 New York Post article entitled, “*NYC Refusing to Release 9/11 Records without Lawsuit Immunity.*”
23. From September 12, 2001 through April 2002, all communications to and from the City Department of Education from: A. The Mayor’s Office; and B. The Law Department of the City of New York concerning the reopening of public schools below Houston Street.
24. From September 12, 2001 through April 2002, all communications from the City of New York to the United States Department of Education concerning the reopening of public schools below Houston Street.
25. All records of protocols for testing and cleaning as well as clearance for occupation of each school below Houston Street from September 12, 2001 through April 2002.
26. As shared with, sent or delivered to the Mayor’s Office from September 11, 2001 through April 2002: all projections, estimates, and assessments as to the number of expected injuries resulting from exposure to toxins and products of combustion released from the World Trade Center Site.
27. As shared with, sent or delivered to the Law Department of the City of New York from September 11, 2001 through April 2002: all projections, estimates, and assessments as to the number of expected injuries resulting from exposure to toxins and products of combustion released from the World Trade Center Site.
28. As referenced in the letter of Mayor Eric Adams of March 22 , 2023 to the Hon. Jerrold Nadler and the Hon. Daniel Goldman, United States House of Representatives, documents, ***not publicly disclosed to date*** by the City of New York, concerning the collapse of the World Trade Center on September 11, 2001, including the release of toxins, and air or dust testing and reopening of schools. By letter to Mayor Adams, dated February 16, 2023, Representatives Nadler and Goldman sought

information in the City’s records pertaining to the earliest analyses of the toxins, dust, and fumes blanketing lower Manhattan and Brooklyn;

the Harding memo and “any correspondence that led to his writing and drafting of this memo”

internal notes or memos regarding the Department of Education’s decision to move kids and teachers back into schools in the frozen zone below Houston. We know that there were parents who expressed strong concerns and even protested this move. What were the deliberations in the DOE? What testing was done to determine the safety of the schools?

Any records, communications, or memos from the New York City Departments of Health and the Environmental Protection that address the scope and toxicity of the WTC plume and the dust, and the exposures New Yorkers experienced

Mayor Adams responded, in his letter of March 22, 2003, that the City would not release this information absent “*necessary federal legislation to make production of documents...legally feasible.*”

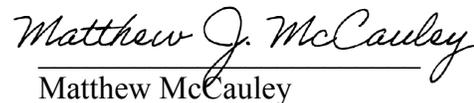
Apparently, notwithstanding its obligations under the Freedom of Information Law, the City will not produce these materials absent desired and undefined “protection” from future liability claims it apparently fears the documents will substantiate.

All of the materials requested in this letter are subject to production under the Freedom of Information Law regardless of whether the City obtains such additional federal protection. Fear of wrongdoing being exposed does not shield public documents from disclosure under New York State law. After more than two decades shrouded in secrecy, this public information must be released, now.

Very truly yours,



Andrew J. Carboy



Matthew McCauley

EXHIBIT 15



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

February 27, 2026

Re: FOIL-2023-002-00733

Dear Andrew Carboy,

This is a response to your request pursuant to the Freedom of Information Law received on September 8, 2023, for the following records:

Records relating to the 9/11 attacks on the world trade center (see attached request for details).

On September 7, 2025, you amended your request to only include sections 1, 2, 5(a)(i-vi), and 5(c-e) of your original request. On December 12, 2025, you appealed on the basis that the Records Access Officer's (RAO) actions to date constitute a constructive denial. The Records Appeals Officer responded to your appeal on December 24, 2025, and remanded your request to the RAO with instructions to produce any responsive records, subject to any applicable privileges or exemptions, by February 27, 2026.

Your request was submitted to several agencies. The Mayor's Office is also responding on behalf of the following agencies:

New York City Department of Design and Construction (DDC) (FOIL 2023-850-00138)
New York City Law Department (Law) (FOIL-2023-025-00368)

The Law Department's records are not maintained in a manner that allows it to search for records responsive to the request. With regard to the Mayor's Office and the DDC, after conducting diligent searches, they have not identified any records responsive to your request under FOIL.

Since the days of the attacks, New York City, as well as federal, state, and local authorities, researchers, and health professionals have published multiple reports, articles, and data regarding the September 11th attacks. Below and attached are a small, non-comprehensive sample of the publicly available data and research regarding the toxins and health effects related to the attacks:

- NYC Health Department's September 11th Health [website](#) maintains a comprehensive list of September 11th -related research studies and findings;
- Reports from the [WTC Medical Working Group](#), which reviewed research findings on the health effects of WTC exposure

- [U.S. Environmental Protection Agency's Response to the WTC Collapse: Challenges, Successes & Areas for Improvement, 8/21/03](#)
- [U.S. Government Accountability Office, Sept. 11 Health Effects in the Aftermath of the WTC Attacks, 9/8/04](#)
- [WTC Health Registry NYC DOHMH, 10/03, Vol 1, No. 1: Understanding the Health Impacts of 9/11](#)
- [Addressing the Health Impacts of 9-11; Report and Recommendations to Mayor Michael Bloomberg](#)
- [U.S. Dept of Health and Human Services/CDC/NIOSH; First Periodic Review of Scientific & Medical Evidence Related to Cancer for the WTC Health Program](#)
- U.S. Environmental Protection Agency, Toxicological Effects of Fine Particulate Matter Derived from the Destruction of the World Trade Center, 12/02 (attached)
- NYC DOHMH, et al, 09/02 Final Report re: Potential Exposure to Settled Surface Dust (attached)

You may appeal this determination in writing within thirty days by addressing such an appeal to FOILAppeal@cityhall.nyc.gov.

Sincerely,



Jeffrey Lowell
Records Appeals Officer

EXHIBIT 16

 **Briscoe Center digitization request**

Dear Andrew,

The materials you requested for digitization are available to download here:

<https://utexas.box.com/s/790mm0gxosxolfy5>

The download link is accessible for 30 days, so make sure to download your file by then. Thank you for your order. Please let me know if you have any questions.

Best wishes,

Marisa

Marisa Jefferson

Duplication Services

The Dolph Briscoe Center for American History

2300 Red River St. Stop D1100

Austin, Texas 78712-1426

  Reply



4:30

5Gw 30



ice.authorize.net



1



BRISCOE CENTER
FOR AMERICAN HISTORY

THE UNIVERSITY OF TEXAS AT AUSTIN

Invoice To: Andrew Carboy
Invoice Number: R000559
Invoice Date: Jan 22, 2026
Payment Due: Feb 21, 2026



0.00 USD

[Show invoice details](#)



Invoice Number: R000559
Invoice Date: Jan 22, 2026
Payment Due: Feb 21, 2026

0.00 USD

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Service Fee	1 × 10.00 USD
RQS Scans	20 × 0.50 USD
Subtotal	20.00 USD

TOTAL 20.00 USD

PAYMENTS:

Date	Amount (USD)	Transaction ID
Jan 22, 2026	20.00	121443063867

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Copied from
the collection
of the Dolph
Briscoe Center
for American
History at the
University of
Texas at Austin

28

To: Robert Harding, Deputy Mayor

From: Michelle Goldstein

Re: Legislative Alternatives to Limit the City's Liability relating to 9/11/01

According to the Law Department, there are approximately 35,000 potential plaintiffs as a result of the events of September 11 and it is estimate that 10,000 would file a claim. Currently, the Tort division handles approximately 8,000 lawsuits per year. A major concern is that if these cases make it to court, the judges and juries will be biased in favor of plaintiffs (even though the City seems to have a strong defense) and therefore, award substantial damages to compensate individuals for their loss.

Tort claims against the City cost about \$308 million in FY 2000 (excluding \$152 million for medical malpractice).

The following is a list of some of the types of potential lawsuits against the City:

Direct Effect

- A direct contact by law enforcement and public safety officers directing individuals who relied (to their detriment) on the direction.
- People who ran from the crash and claim they fell on a roadway defect

Aftermath

- Police failed to secure evacuated premises from looters
- Health advisories caused individuals either to return to the area too soon (causing toxic exposure or emotional harm) or too late (causing economic hardship).
- Rescue workers were provided with faulty equipment or no equipment (i.e. respirators).
- Unsafe workplace (OSHA, FEMA, Labor Law)
- Business interruption claims for evacuation that poor communication and confusion delayed access to return.
- Inadequate clean up

Following are legislative options:

Creation of a Congressional Fund for the Victims

One way to limit the City's liability is for Congress to create a congressional fund that mirrors the fund created for the airline industry. Congress, in the Airline bailout, created the "September 11th Victim Compensation Fund of 2001" that will provide compensation to any individual (or relatives of a deceased individual) who was physically injured or killed as a result of the terrorist-related aircraft crashes of September 11, 2001. The

Attorney General, through a Special Master, is charged with administering the compensation program, with no budget limitations. In filing a claim the individual/family does not have to establish fault and waives the right to file a civil action. Individuals who do file a claim are capped in the possible judgment. This fund is quite broad and would allow all injured individuals, not just those in the airplanes, to apply for compensation and to obtain it in a timely manner.

Federal Indemnification

Since the number of lawsuits that will be filed is unknown, as is the actual liability amount the City will incur, the City could request indemnification by the Federal government for all liability claims arising from the events of 9/11/01. This form of relief could also assist the City in the long-term as well by including toxic tort cases that might arise in the next few decades. This proposal would require the City to devote resources to defending these claims and then seek Federal indemnification. This alternative would, therefore, still require the City to devote a tremendous amount of time and resources to these cases.

Background

The airlines succeeded in getting the bailout legislation by convincing Congress that they would "go under" within a matter of days without it. They claimed that the insurance companies would not continue to cover them, and that they would not be able to access the capital market without immediate protection. The Trial Lawyers Association cooperated in creating the fund for payments to victims who waive their rights to sue.

Silverstein and the Port Authority are lobbying for bailout legislation now. Silverstein is arguing that if Congress will bail him out, he will use his insurance money to rebuild. These efforts are meeting resistance. *h*

According to Schumer's office, they are working on technical corrections to the airline bailout bill that will clarify that persons who opt to receive payment from the federal fund must waive all claims including claims against the City (but only the claims that arose on September 11). Apparently, this was the original intent of the bill and Senator Schumer made a statement on the record to this effect. (However, it will be difficult to amend the bailout law. Many members of Congress who voted for it are now having "buyers remorse.")

We have been advised that the City will need to convince Congress that it has a "compelling need" to be bailed out, something in the order of a likelihood of bankruptcy without federal protection. By advocating this we may be inviting litigation.

The City's potential liabilities are less immediate and much harder to quantify than the dangers articulated by the airlines, and may not persuade Congress of the need to provide us protection now. Of the various liability concerns, perhaps the one most worth pursuing in Washington is the demand of the contractors that the City indemnify them above the amounts that will be covered by insurance that we can purchase. *h*

CSUS U E 1116

CSUS U E 1116

STOP

EXHIBIT 17



mayor Eric Adams. We did the largest number of veto overrides

02/04/2026

, Privileges, Standards,

gov Ethics and Elections



Transcript



the

1:47:56 speaker pointed out to me uh in this the 25th anniversary year of the horrible tragedy that I experienced personally.

1:48:05 Thank you. And I know you also support the fact that DOI will continue their research. Absolutely.

1:48:12 Okay. Second of course is um under Victor Cubner that was a few years ago but in my 30

1:48:19 shut up Victor Cubner was corporation corporation and I were a lot younger. We were both alive. We were

Sync to video





Transcript



very aggressive. I'm sure we'll come to a good resolution.

30:04 So, want to move on to the September 11th files that you've got the 25th anniversary of 911 coming up. You have unfortunately thousands of first

30:13 responders and residents who died of cancer because the federal EPA said the air was safe to breathe. We know the

30:20 city back then at the time of 911 may have had some information or knowledge.

30:27 We many of us have been trying for years to get these 911 files released





30:14 / 2:46:29

THE COUNCIL

02/04/2026

gov

Committee on Rules, Privileges, Standards,
Ethics and Elections

Transcript



30:27 We many of us have been trying for years to get these 911 files released. What is your view of that? And and what will

30:34 your view be as corporation council on the release of these files?

30:39 Uh this is very personal to me. I'm not going to let my personal views uh color

30:46 my legal conclusions, but I believe I should tell you what my personal experience has been. Uh my daughter was

Sync to video

30:53 one of the fifth graders at the





30:14 / 2:46:29

THE COUNCIL

02/04/2026

gov

Committee on Rules, Privileges, Standards,
Ethics and Elections

Transcript



experience has been. Uh my daughter was

30:53 one of the fifth graders at the school at the corner of Greenwich and Chambers who was evacuated out of the building by

31:01 the teachers when the tower towers fell in a cloud of uh dust and debris. Uh as

31:11 a parent I didn't know where she was. I was searching for her. She was safe. uh but she uh had asthma as a result of her

31:20 exposure down there. Uh our offices at the legal aid society at

Sync to video



NANTASHA WILLIAMS, PhD



30:14 / 2:46:29

THE COUNCIL

02/04/2026

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Committee on Rules, Privileges, Standards,
Ethics and Elections

Transcript



result of her

31:20 exposure to to the air down there.

Uh our offices at the legal aid society at the time were at 90 Church Street just

31:28 across from where the towers had stood and we were unable to return to them.

31:34 After the tragic events of that day, my colleagues and I at Legal Aid provided legal assistance to people who had lost

31:42 their jobs and their homes at the city's disaster relief center at 80 Center Street.

Sync to video





30:14 / 2:46:29

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Transcript



31:49

So, I'm going to conduct a full review of what records we have, what records

31:56

have been discovered, if any, what records can and should be released. I know I will be testifying before you at

32:04

least at preliminary budget and executive budget if not in other occasions and I will be accountable for what I'm saying today which is we are

32:11

going to review under my watch. We're going to review what records there are and release records that can be released.

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30:14 / 2:46:29

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Transcript



32:11 going to review under my watch. We're going to review what records there are and release what records can be released.

32:17 Okay. I just want to say one more thing on that. I mean, as someone who spent a decade of my life working on issues regarding 911,

32:25 I I I can't say strongly enough that if the city was liable for misleading the public and telling everyone backing what

32:33 the EPA said that the air was safe to breathe and those of us like myself and others and died of a 9/11 related cancer she stayed downtown It

Sync to video





Transcript



32:33 the EPA said that the air was safe to breathe and those of us like myself and others and my mother died of a 9/11 related cancer, she stayed downtown. It

32:41 it's just shameful that the the city of New York has blocked the release of these files. So, I'm urging you to

32:48 really recons, you know, to look at this and I know you will with fresh eyes because it is now 25 years that these files have been blocked and they we

32:57 really need to have them released uh for transparency, for accountability and for all the lost loved ones and so these things don't happen

Sync to video





30:14 / 2:46:29

THE COUNCIL

02/04/2026

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Ethics and Elections

Transcript



and for all the families that lost loved ones and so these things don't happen again.

33:06 So, I feel very strongly about it. Last question before I turn it over to the chair. want to get a sense of your view

33:13 and how you will be advising the mayor on issues surrounding for example what happened at Park East Synagogue around

33:22 protesting and how are you going to balance obviously first amendment rights uh to to free speech and to protest with

Sync to video

33:30 some of what we've seen happen



EXHIBIT 18



Search

Legal DivisionsSupport Divisions

Select ▼

- Administration
- E-Discovery
- Information Technology
- Litigation Support
- Operations

E-Discovery

The E-Discovery Division consists of attorneys, project managers and e-discovery analysts who work with case teams and agency counsel to meet the Law Department's e-discovery needs. Its members provide legal and technical guidance and services to assist in all aspects of e-discovery – helping to develop strategy, implement legal holds, collect and process electronic data, set up document reviews, apply advanced analytical tools and run document productions. They also help during negotiations with opposing counsel, at court conferences, drafting papers, and wherever their expertise in e-discovery and the governing law and rules may be helpful.

As different forms of electronic documents and communications become increasingly common throughout City agencies, the volume of electronic data that must be collected, reviewed and produced in each case is increasing rapidly. The E-Discovery Division manages that data, handling several hundred document productions each year. To do so, it processes many terabytes of data, consisting of tens of millions of documents. Its work allows the City to meet its e-discovery obligations while ensuring efficiency and defensibility throughout the process.

EXHIBIT 19



Search

Legal DivisionsSupport Divisions

Select ▼

- Administration
- E-Discovery
- Information Technology
- Litigation Support
- Operations

Litigation Support

The Litigation Support Division oversees various technologies focused on the practice of law at the Law Department, advises on a diversity of techno-legal topics, and assists high-volume clients in responding to discovery. As such, a wide variety of people work in Litigation Support: lawyers; application and database administrators and other experts; project and contract managers; and paralegals, claim specialists, and public records aides. They are basically broken out into two teams.

One team provides assistance to particularly high volume clients of the Law Department with responding to discovery demands. This agency-based discovery team primarily works on-site at the client agencies to streamline the discovery response process by creating repeatable, defensible and efficient workflows.

The second, a practice management team, oversees the agency's matter management system. Using this, the Law Department exchanges data with sixteen client agencies and outside firms, as well as varied internal systems. This team also creates and runs reports – close to 3,000 annually – analyzing the Law Department's matters, and it oversees the Law Department's document management system.

EXHIBIT 20

The City Repeatedly Proclaims the Air of Lower Manhattan to be Safe Following the World Trade Center Collapse

September 12, 2001:

Mayor's Office

Mayor Giuliani assured New Yorkers, *"The air is safe as far as we can tell of chemical and biological agents."*

"Air quality as far as we can tell ... is not dangerous," the mayor said.

"Asbestos is in the air as long as you are not in the epicenter, it is not at dangerous levels."

Health Commissioner Neil Cohen said, *"We're monitoring air pollutants. You have to keep testing."* *"So far it is safe,"* he said

(SOURCE: NY Digging for Dead, Survivors, UPI, September 12, 2001, article with these quotes attached, below)

September 16, 2001:

New York City Department of Health

"Based on the asbestos test results received thus far, the general public's risk for any short or long term adverse health effects are very low."

"The Health Department has produced a Public Health Advisory for residents and people returning to work in the nearby area. Residents and workers are advised to guard against dust and soot which can cause respiratory symptoms and eye and throat irritation."

(SOURCE: Department of Health Provides Health and Safety Precautions and Conducts Essential Public Health Activities, September 16, 2001, press release with these quotes attached, below)

September 17, 2001:

Mayor's Office

"Tomorrow, both City Hall and the New York Stock Exchange -- two powerful symbols of America, one of freedom, the other of free enterprise - will be open for business. City workers will begin to return to work in Lower Manhattan. The private sector will begin to return to business as usual. And more of our streets and subway stops will be open and functioning."

*"All buildings to which City workers will be asked to report tomorrow have been inspected and found structurally sound. **All central air conditioning and ventilation systems have been cleaned, and air quality has been tested and deemed safe**"*

(SOURCE: Mayor Giuliani Announces Details on Further Opening of Lower Manhattan for Monday, September 17, 2001, press release with these quotes attached, below)

September 28, 2001:

Mayor's Office

The mayor dismissed concerns about air quality near the World Trade Center, which contained asbestos. *"**Although they occasionally will have an isolated reading with an unacceptable level of asbestos ... it's very occasional and very isolated. The air quality is safe and acceptable.**"*

(SOURCE: Giuliani: Recovery, Cleanup Could Take a Year, CNN, September 28, 2001, article with these quotes attached, below)

October 5, 2001:

New York City Department of Health

*“As work continues at the disaster site, the presence of dust and smoke odor in the downtown area has been of understandable concern to residents. However, air monitoring by Federal, State and City agencies has indicated that the **levels of particulate matter being detected are below the level of public health concern and do not pose long-term health risks to the general public.**”*

(SOURCE: NYC Health Department Responds to Concerns About Air Quality in Lower Manhattan, October 5, 2001, press release with these quotes attached, below)

February 11, 2002:

New York City Department of Health

*“Many individuals were exposed to large amounts of smoke, dust, and airborne substances. The potential release of contaminants during and after the disaster was a primary public health concern from the beginning. Air monitoring was established immediately, and continues. **The Health Department reviews the numerous air quality, debris sample results and personal air monitoring tests being conducted by various agencies. The data from air quality tests thus far have been, in general, reassuring. None of the test results done to date would indicate long-term health impacts.**”*

*“**No elevated levels of asbestos in indoor air.**”* (study of residential buildings)

(SOURCE: Sworn Testimony of City Health Commissioner Thomas Frieden to U.S. Congressional Committee, February 11, 2002, transcript with these excerpts attached, below)

February 11, 2002:

New York City Department of Environmental Protection

*“Based on all Federal, State and local test results, **public health experts have consistently expressed confidence that, based on sampling, airborne asbestos levels do not pose a threat to human health.**”*

SOURCE: Sworn Testimony of City Environmental Protection Commissioner Joel Miele to U.S. Congressional Committee February 11, 2002, transcript with these excerpts attached, below)

October 31, 2009:

Mayor’s Office (Bloomberg)

The current mayor of New York City, Michael Bloomberg says the health study does not prove a direct link to conditions at the site: *“**There is no way to tell for sure ... and you have to be very careful. If I say I've got something because of this, it's just not the way science works.**”*

(SOURCE: Health Problems of 9/11 Rescuers in New York Continue Five Years After Terrorist Attack, Voice of America, October 31, 2009, article with these quotes attached, below)

UPI ARCHIVES SEPT. 12, 2001

NY digging for dead, survivors

By WILLIAM M. REILLY



NEW YORK, Sept. 12 -- New York City Mayor Rudolph Giuliani said late Wednesday they had recovered 82 bodies from the carnage of the World Trade Center, which was attacked by hijacked planes Tuesday.

As the aircraft carrier George Washington floated just off the coast, bodies were slowly extracted from the rubble of New York's World Trade Center towers.

Five people have been brought out alive but thousands remain missing and the families of 2,500 have showed up at an armory converted into a family center.

Wednesday rescue teams with hearing and sniffer dogs, sensitive microphones, and cameras, poked through the mass of steel and glass that once were the showcases of lower Manhattan, and the center of much of the world's financial business.

In addition to thousands missing, Giuliani said earlier Wednesday that some 300 firefighters, 40 New York City police officers and 30 Port Authority officers had still not been found. Later, he confirmed that 82 bodies have been recovered.



Giuliani said the family center was operating at Bellevue but much bigger space needed. If we are going to service two or three or 4,000 thousand people we're going to need a lot bigger space.

Asked if he thought some bodies may have been "burned up in the fires," he replied, "I think we have to face these things as we have to deal with them. I don't know the answer to that."

Also Wednesday the 1 Liberty Plaza building just south of the World Trade Center, partially collapsed after evacuation with no serious injuries, the Fire Department said. Nearly simultaneously, a secondary collapse at adjacent WTC Tower

Fire Commissioner Thomas Von Essen addressed the near collapse of No. 5 WTC in a briefing.

There were seven buildings in the World Trade Center.

"We expected it to fall. We had been working on it trying to get as much of the fire out and debris removed as we could and it collapsed," he said.

Asked about possible collapse of the Millennium Hotel east across Church Street from the World Trade Center, he said, "We'll be able to give you a better report tomorrow (Thursday)."

Some Battery Park City residents, along the Hudson River, have also been ordered out of their homes.

"We're going back in there and assess the buildings and the air quality. If we have to move people out of the other building, we will but we hope we won't have to," said Von Essen.

Asked if other buildings were unstable too, he said, "We don't think so, but we are going to reassess all of the buildings."

At the briefing, Guiliani said New York City requested 6,000 body bags from FEMA.

When questions about "tangible evidence" such as cell phone calls or tapping indicating people were still alive in the rubble, he said, "We've had information like that all throughout the day. Sometimes information like that worked out and we've been able to find a person, but I don't know of any current information like that.

this, they are literally putting their lives at risk to try to find people and save them or to find their remains."

He was unable to put a number to the total fatalities expected. "We are talking about thousands of people, and I don't think beyond thousands we can be any more precise than that," he said.

Grief-stricken relatives and friends of people who are missing have been showing up at Bellevue Hospital and at New York University Medical Center to check lists and seek word on their loved ones. Many carried photographs that they showed to television cameras.

Ellen Borakove, spokeswoman for the medical examiner, said families of the missing are being sent to NYU, next to the morgue, where they are being supplied with identification kits.

The kits, provided by federal Disaster Mortuary Teams, ask for personal information, dental records, photographs and descriptions of possible clothing being worn, to help with identification.

Borakove said all bodies are being brought to the morgue, where they are identified, before being sent to any other facility.

In the five-story rubble of the towers, some pockets of fire remain. Thick gray and white smoke continued to blanket lower Manhattan, already covered by a thick coat of gritty dust.

As clamshell cranes grab bites of rubble, they are inspected for bodies and body parts before being loaded on dump trucks and taken to the Fishkill Landfill on Staten Island where police and

Giuliani has appealed for help in finding the four flight recorders, the "black boxes" that could give vital clues to what happened before the two hijacked planes sliced into the towers early Tuesday, triggering a holocaust that may have killed thousands.

Although there were 18 special search-and-rescue teams in the area, some were idle because conditions made it difficult to work.

Roger Tobias of Pennsylvania Task Force One was in New York when the attack occurred and rushed to volunteer.

"We can't go in until the smoke gets down," he told United Press International. He said the building had pancaked and teams were using special cameras and microphones to search.

"We believe survivors will be minimal, except for pockets and voids," he said. "But we don't want to leave here until everyone possible is accounted for."

Peter Kirkiles, a volunteer rescue worker, said he had worked for about four hours passing pieces of metal, bucket-brigade style, from the rubble.

"I feel like I played a couple of football games," he said.

Another volunteer, city transit worker Bill Crowley, said he was working Wednesday morning searching for victims when they found a fireman.

"They found him underneath the rubble. They pulled him out and worked on him and he was alive, and everyone clapped."

"They're finding body parts," he said.

"These guys don't know the meaning of tired. They're like mountain climbers." He said he saw one fireman working two stories down in a hole searching for victims.

Authorities are continuing to appeal for assistance and for blood.

An ominous sign was the lack of activity at the local hospitals.

St. Vincent's, the closest hospital to the World Trade Center, said it had only four injured Wednesday, after admitting 365 Tuesday. Most were rescue workers with eye injuries, respiratory problems or cuts.

Mark Ackerman, the hospital's spokesman, said the lack of patients was "very frustrating, especially for some of the nurses who have husbands in the Fire Department whom they haven't heard from for 24 hours. But they are still working."

At Bellevue, they had received 230 people, including 75 firefighters, and 21 police officers.

In the search-and-rescue effort, dust has become a major problem.

"The dust is a concern because it is pulverized concrete and drywall and it contains very fine particles that can cause respiratory problems for days after exposure and can set off asthma," said Russ Reeves, a structural engineer in Albany, N.Y. "I expect anyone working in the recovery area for any long period of time will be wearing a respirator."

masks, Giuliani assured New Yorkers, "The air is safe as far as we can tell of chemical and biological agents."

He warned, however, of "irritation to the throat and eyes" from debris dust, mostly concrete and dry-wall sheet rock.

"Air quality as far as we can tell ... is not dangerous," the mayor said. "Asbestos is in the air as long as you are not in the epicenter, it is not at dangerous levels."

Health Commissioner Neil Cohen said, "We're monitoring air pollutants. You have to keep testing." So far it is safe, he said.

With the change in wind Wednesday, blowing north-northeast, the smoke and dust could be felt in Midtown, even near the United Nations on the East River. The Trade Center is just off the Hudson River on the West Side.

Adding to the day's fear and confusion, the Empire State Building was the target of bomb threats. But security officials at what is now once again New York's tallest building said a search of the premises found no bomb and the building will reopen Thursday for tenants only.

Elsewhere in New York, bomb threats also forced the closing of two of the four border crossings from Canada to Buffalo and Niagara Falls N.Y. Wednesday causing massive traffic tie-ups.

The Lewiston Queenston Bridge was closed around 7 p.m. and the Whirlpool Bridge was shut down all day. Traffic stretched for miles along at the Lewiston-Queenston bridge, north of Niagara Falls.

Buffalo City Hall was evacuated Wednesday after receiving a threat around 3 p.m. and because of the lateness of the day, Mayor Anthony Massillon closed city hall and sent workers home. City hall also closed early Tuesday after receiving a threat.

Thursday there will be an extraordinary joint session of the state's legislature.

Gov. George Pataki said mass transportation was expected to be back in full operation. However, decisions had not yet been made to fully open the Lincoln and Holland Tunnels to New Jersey.

The city has been slowly restoring services. Trains, including Amtrak services, were coming into Grand Central and Penn Stations, and buses were running above 14th Street, as were the city subways.

Telephone and electric service was at a premium below 14th Street, but Giuliani said they hoped to restore service within a few days.

He said major corporations, including GE and Cisco, had donated millions of dollars to families of emergency workers who were victims.

Giuliani said once the rubble is cleared away, the city will rebuild. "There is no question we're going to rebuild. In what form has to be worked out," he said.

Around the Web

REVCONTENT

These Are The Rolls-
Royce of Hearing Aids
(And Under \$100)

Oricle Hearing

New Program in New
York Could Give
Homeowners Up to
\$185,000 in Cash-Out

Department of Health Provides Health and Safety Precautions and Conducts Essential Public Health Activities; September 16, 2001

Press Release

New York City Department of Health

Office of Public Affairs

FOR IMMEDIATE RELEASE

Sunday, September 16, 2001

IN RESPONSE TO THE WORLD TRADE CENTER DISASTER, NEW YORK CITY DEPARTMENT OF HEALTH PROVIDES HEALTH AND SAFETY PRECAUTIONS AND CONDUCTS ESSENTIAL PUBLIC HEALTH ACTIVITIES

Working closely with City, State and Federal agencies since September 11, the New York City Department of Health has been conducting several public health activities in response to the World Trade Center disaster. Foremost among these are monitoring air quality in the general vicinity of the World Trade Center, working with other agencies to ensure that worker safety measures for search and rescue workers are in place, conducting surveillance for illnesses and injuries at New York City Hospitals, and mobilizing environmental investigation teams to ensure the safety of the food and water supplies.

Monitoring Air Quality and Respiratory Issues

While excavation continues at the site, the Health Department has been monitoring the air quality tests being conducted by the U.S. Environmental Protection Agency (EPA) and the New York City Department of Environmental Protection (DEP). Workers who are involved in the recovery mission have been equipped with half-face masks and goggles, as well as protective clothing, to reduce exposure to any particulate matter including dust. Based on the asbestos test results received thus far, the general public's risk for any short or long term adverse health effects are very low. A fact sheet detailing DOH recommendations can be found on the DOH website at nyc.gov/health.

The Health Department has produced a Public Health Advisory for residents and people returning to work in the nearby area. Residents and workers are advised to guard against dust and soot which can cause respiratory symptoms and eye and throat irritation. Residents in the immediate area are advised to keep windows closed and to avoid strenuous outdoor activity in the area affected. A fact sheet detailing DOH recommendations can be found on the DOH website at nyc.gov/health.

Medical Surveillance

The New York City Department of Health is monitoring several medical issues throughout the City.

The Main Office of the NYC DOH has been temporarily relocated to 45 1st Avenue.

Staff are working on site in selected hospital emergency departments to assess event-related injury and illnesses which may occur subsequent to the World Trade Center disaster. To bolster the Department's efforts, Epidemic Intelligence Service (EIS) officers from the U.S. Centers For Disease Control and Prevention (CDC) are assisting in efforts to monitor diseases, conduct a medical and mental health needs assessment, identify health problems such as dust and allergic conditions, and to determine if there are any new medical needs. Testing done by the New York

City Department of Health immediately after the blast showed no evidence of any biologic or chemical agents.

Handling of Corpses

While health risks associated with the handling of corpses by the rescue workers are low, the Department of Health has recommended the use of universal precautions when handling human remains. This includes wearing face shields, protective garments, and heavy duty rubber gloves to prevent exposure to blood or body fluids, with attention to sharp fragments of bone and debris that can pose a risk of percutaneous injury. The decomposing remains of human bodies poses no environmental health risk to the general public.

Water Quality

The Health Department and the Department of Environmental Protection are monitoring water quality in the area around ground zero. Test results of the area north of blast zone are within acceptable limits, but tests are ongoing.

Food

The Health Department has prioritized permitted food establishments below Canal Street for inspection so that they may be operational as soon as possible. Environmental investigators are working with restaurant owners and the operators of other permitted food establishments to ensure safety of the food served. Additionally, the Health Department is overseeing the distribution of food served to rescue workers at the blast zone.

Pest Control

The Health Department is currently conducting a survey of the blast zone and the surrounding areas in lower Manhattan to assess the impact of the blast on rodent activity. Working in concert with other city agencies including the Mayor's Office of Emergency Management and the Department of Sanitation, Health Department crews will mobilize inspectors, exterminators, and clean-up crews to abate conditions conducive to rodent harborage, as necessary.

For more information, please visit the Health Department's website (nyc.gov/health). Fact sheets and public health advisories will be posted soon to address:

- Coping with post-disaster grief and despair;
- Air quality in the affected area of the World Trade Center disaster;
- Re-occupation of evacuated residential areas.

MAYOR GIULIANI ANNOUNCES DETAILS ON FURTHER OPENING OF LOWER MANHATTAN FOR MONDAY, SEPTEMBER 17, 2001

Borders of Closed Areas

Street Openings and Closings

Points of Entry Into Lower Manhattan

Open and Closed Subway Stops

Instructions for City and Private Sector Workers Who Work in Lower Manhattan

Mayor Rudolph W. Giuliani today announced that additional areas of Lower Manhattan will be open beginning tomorrow, September 17, 2001.

"Now is the time for New Yorkers to show the world--and especially those who perpetrated these attacks--how resilient we are," Mayor Giuliani said. "The City of New York and the United States of America will not be intimidated by terrorism. That's why we are determined to return the City to normal as quickly as possible, wherever and whenever it is safe to do so."

"Tomorrow, both City Hall and the New York Stock Exchange -- two powerful symbols of America, one of freedom, the other of free enterprise -- will be open for business. City workers will begin to return to work in Lower Manhattan. The private sector will begin to return to business as usual. And more of our streets and subway stops will be open and functioning."

The area bordered by Broadway to the East, the Hudson River to the West, Chambers Street to the North, and Rector Street to the South is a secure zone, and will remain completely closed to all but essential emergency personnel. **IF YOUR OFFICE IS IN THE SECURE ZONE, DO NOT REPORT TO WORK TOMORROW MORNING.**

South of Rector Street, East of Broadway, will also be closed to pedestrians, and all offices in this area will be closed.

South of Canal, West of Broadway, Lower Manhattan will be accessible to pedestrians **ONLY** by subway, bus or ferry. **PEDESTRIANS WILL NOT BE ALLOWED TO CROSS CANAL STREET BETWEEN BROADWAY AND THE RIVER INTO LOWER MANHATTAN.**

Pedestrians will be allowed to enter Lower Manhattan via Canal Street East of Broadway, and will be allowed to leave Lower Manhattan across Canal Street at any point.

The Holland Tunnel will remain closed to all but emergency vehicles. The Brooklyn Battery Tunnel will remain closed to all but emergency vehicles and express buses. In addition, the Brooklyn Bridge will remain closed to vehicular traffic, but will remain open to pedestrians. The Manhattan Bridge will be open to vehicular traffic. All other Port Authority and MTA bridges and tunnels will be **OPEN**.

The Staten Island Ferry will be running on its normal schedule. In addition, there will be a special free ferry service between Brooklyn and Lower Manhattan, with a free commuter bus connection in Bay Ridge. Passengers may take the ferry from the Brooklyn Army Terminal, at 58th Street and First Avenue, in Sunset Park Brooklyn to Whitehall in Lower Manhattan. The ferry will run every half-hour between the hours of 6 am and 9 pm, and 3 pm and 7 pm. There will be **NO BROOKLYN-MANHATTAN FERRY SERVICE** between 9 am and 3 pm.

The following changes have been made to the subway lines serving Lower Manhattan:

- Service on the 1/9 lines between Chambers Street and South Ferry has been suspended indefinitely.

- The World Trade Center station on the E line is CLOSED.
- The N/R line between Canal Street and Whitehall Street is CLOSED until further notice.
- Until further notice, 2/3 lines will bypass the Chambers Street and Park Place stations.
- Until further notice, the A/C lines will bypass the Chambers Street station.
- Until further notice, the 4/5 lines will bypass the Wall Street station.

There will be no express bus service below 23rd Street, and no local bus service south of Canal Street. Some bus routes serving Lower Manhattan will discharge and pick-up passengers at temporary bus stops along Water and Pearl Streets.

Subway and bus service information is subject to change on short notice. For the most current information, visit the MTA website at www.mta.nyc.ny.us.

In addition, the City and private vendors will operate buses from Brooklyn and Staten Island into Lower Manhattan, with stops along Water and Pearl Streets. For routes and schedules, please visit the DOT website at www.nyc.gov/calldot.

City Hall will be open for business and all City workers who work in City Hall should report to work. For City workers who work in any other building south of Canal Street, only essential personnel should report to work. Essential personnel will be identified by their Commissioner and contacted by a supervisor. **IF YOU ARE A CITY WORKER WHOSE BUILDING IS IN LOWER MANHATTAN AND YOU ARE NOT CONTACTED, DO NOT REPORT TO WORK.**

To enter their offices, all City personnel will be required to have TWO FORMS of identification: their City ID, and a driver's license, state identification card, or passport. In addition, all bags will be subject to search.

All buildings to which City workers will be asked to report tomorrow have been inspected and found structurally sound. All central air conditioning and ventilation systems have been cleaned, and air quality has been tested and deemed safe.

PLEASE NOTE: No window air conditioners -- in any building, public or private -- should be operated until you have verified that it has been professionally cleaned.

New Yorkers in need of City Services should contact the relevant agency at a location outside Lower Manhattan. For locations, please consult www.nyc.gov. New Yorkers should be aware that telephone service to City Agencies in Lower Manhattan is limited at best. Calls should be directed to offices at other locations.

Private sector employees should not report to work at any building within the frozen zone, as outlined above. All others should contact their employer for information on the status of their building.

Businesses and landlords in need of assistance are encouraged to call the Business Helpline at (718) 03-2220. Also, businesses and landlords are required to ensure that their space has been thoroughly inspected and deemed safe before it is re-occupied. A checklist of key criteria can be obtained from the City's website at www.nyc.gov. The City asks that all landlords and business opening their properties in Lower Manhattan complete the checklist and remit the data to the City either on-line or via fax at (646) 09-2079. Those with questions about the form should call (212) 8-1-98, to speak to a Department of Buildings representative.



Giuliani: Recovery, cleanup could take a year

September 28, 2001 Posted: 7:22 PM EDT (2322 GMT)



A police officer uses a dog to search the rubble of the World Trade Center.



NEW YORK (CNN) -- Tons of rubble and a host of structural, logistical and safety challenges could extend recovery and cleanup efforts in Lower Manhattan at least a year, Mayor Rudy Giuliani said Friday.

Workers already have removed around 134,000 tons of debris from around the World Trade Center complex, but more than 1 million more tons of rubble remain.

"The amount of time they will need to remove and clear the site will range anywhere from nine months to one year because of the complexity they believe they will face," Giuliani said.

The most difficult task, the mayor explained, could come after workers remove all the surface material and debris from the site, which includes the wreckage of the two 110-story towers. Their collapse drove some of the structures and material deep into the ground, he said.

Meanwhile, New York Police Commissioner Bernard Kerik said the Organized Crime Control Bureau and the Trade Waste Commission are investigating the theft of debris from the disaster site. The stolen material was taken to two locations in New Jersey and one in Long Island, and Kerik said police have not established a motive.

The official number of people missing in the rubble dropped to 5,960 on Thursday after a recheck of missing persons reports, Giuliani said. The police department is drawing its numbers from six different sources, meaning there is the possibility of duplication.

The mayor said 306 deaths have been confirmed, and 238 of the dead have been identified.

Dr. Robert Shaler, chief of forensic biologist in the New York City medical examiner's office, told The Associated Press that most victims examined died from "blunt trauma," and others from burns, smoke inhalation and injuries from sharp debris.

Giuliani said he attended the wakes of three firefighters Thursday night and hoped to attend at least eight upcoming funerals, praising the thousands of people who also have turned out to honor the dead and comfort their families.

"I was really very, very much impressed and strengthened by ... the turnouts," the mayor said. "It was very comforting for the families to be able to see thousands of people showing up out of respect."

A total of 8,786 people have reported injuries from the September 11 attacks on the World Trade Center, Giuliani said.

The mayor dismissed concerns about air quality near the World Trade Center, which contained asbestos.

"Although they occasionally will have an isolated reading with an unacceptable level of asbestos ... it's very occasional and very isolated," Giuliani said. "The air quality is safe and acceptable."

VIDEO

CNN's Beth Nissen talks with NYC Fire Department's Emerald Society of Pipes and Drums who are playing to mourn their comrades (September 28)

Play video
(QuickTime, Real or Windows Media)

Donations are making their way to victims' families and others affected by the attack. Correspondent Hillary Lane reports (September 28)

Play video
(QuickTime, Real or Windows Media)



September 11, 2001 : Attack on America

NYC Health Department Responds to Concerns About Air Quality in Lower Manhattan;

October 5, 2001

Press Release

New York City Department of Health

Office of Public Affairs

FOR IMMEDIATE RELEASE

Friday, October 5, 2001

**NYC HEALTH DEPARTMENT RESPONDS TO CONCERNS ABOUT AIR QUALITY
IN LOWER MANHATTAN**

New York City Health Commissioner Neal L. Cohen, M.D., today informed New Yorkers that despite the smoky conditions in areas of lower Manhattan that are close to the World Trade Center site, test results from the ongoing monitoring of airborne contaminants indicate that the levels continue to be below the level of concern to public health. Nonetheless, while debris continues to be disturbed, and while flare ups of smoke continue to permeate the downtown area, air testing results will continue to be monitored, and appropriate health recommendations will be issued as necessary.

Dr. Cohen added, “As work continues at the disaster site, the presence of dust and smoke odor in the downtown area has been of understandable concern to residents. However, air monitoring by Federal, State and City agencies has indicated that the levels of particulate matter being detected are below the level of public health concern and do not pose long-term health risks to the general public. Some individuals with underlying respiratory conditions, such as asthma, may experience exacerbation of symptoms, and other persons may also experience short-term discomfort including irritation of the eyes, nose, and throat.”

In addition to air monitoring activities, efforts are being made daily to suppress dust and smoke at the World Trade Center disaster site. Results of daily dust sampling conducted by the U.S. Environmental Protection Agency is available online at epa.gov. Fact sheets detailing Health Department recommendations pertaining to air quality, asbestos, safely re-occupying homes and buildings, and worker safety are available online at nyc.gov/health. For more information about all Health Department activities, New Yorkers can call (212) 227-5269.

S. HRG. 107-524, Part I

**AIR QUALITY IN NEW YORK CITY AFTER THE
SEPTEMBER 11, 2001 ATTACKS**

FIELD HEARING
BEFORE THE
SUBCOMMITTEE ON CLEAN AIR, WETLANDS, AND
CLIMATE CHANGE
OF THE
COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE
ONE HUNDRED SEVENTH CONGRESS
SECOND SESSION
ON
AIR QUALITY IN NEW YORK CITY AFTER THE SEPTEMBER 11, 2001
ATTACKS

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FEBRUARY 11, 2002—NEW YORK CITY
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Printed for the use of the Committee on Environment and Public Works



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AIR QUALITY IN NEW YORK CITY AFTER THE SEPTEMBER 11, 2001 ATTACKS

MONDAY, FEBRUARY 11, 2002

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
SUBCOMMITTEE ON CLEAN AIR, WETLANDS,
AND CLIMATE CHANGE,
New York, NY.

The subcommittee met, pursuant to notice, at 9:30 a.m. at the Alexander Hamilton U.S. Customs House, One Bowling Green, New York, NY, Hon. Joseph Lieberman (chairman of the subcommittee) presiding.

Present: Senators Lieberman and Clinton.

Also present: Congressman Nadler.

OPENING STATEMENT OF HON. JOSEPH I. LIEBERMAN, U.S. SENATOR FROM THE STATE OF CONNECTICUT

Senator LIEBERMAN. Good morning. As people are coming in, let me—I know there's a security screening which is delaying some folks, so why don't we begin because we have a full morning and a number of witnesses. I would ask the folks who are here to try to take their seats.

Senator Clinton and I will make our opening statements, then we'll go to Congressman Nadler as the first witness.

I want to call this hearing of the Senate Subcommittee on Clean Air to order. I want to begin by thanking Senator Clinton for her leadership on this problem. The fact is that this subcommittee hearing would not be occurring here this morning, were it not for Senator Clinton's concerns and for her advocacy.

Five months ago today, just blocks from this site, tragedy struck this Nation and this city like never before. This great city particularly, the center of so much life and energy and the place where so many American dreams have been born and realized, was struck at its heart. The terrible images of that day will forever be seared into our souls and into our psyches.

Now as we work together to ensure that such an attack never happens again, we know that we will never forget the 3,000 loved ones and fellow citizens we lost, nor will we ever cease to be inspired by their lives or by the lives of the rescue workers whose heroism has rewritten the word for this new century. The consequences of that day to our society, our culture and our Government are great, and they seem to be growing every day.

But today we've gathered to discuss a particular problem: the public health consequences of the attacks on the World Trade Cen-

ter for the men and women who live and work here and for the children who go to school here. Especially for the workers whose tireless efforts in the cleanup and recovery of the site have reminded so many of us of what's best in America.

We return to the scene of the crime, a horrific war crime, to examine its consequences, continuing consequences, on the people of New York City. Because the fact is that we cannot allow the lingering consequences of September 11th to do any more damage to the health and well-being of the people of New York. When those two towers tumbled down, they brought tons and tons of building materials with them, releasing large quantities of dangerous chemicals into the air.

I know that there are serious concerns about the level of asbestos and benzene and heavy metals at and around the site. Workers at Ground Zero, from firefighters to police officers, to the construction workers and the sanitation workers and so many others, have reported respiratory ailments, mostly complaining of the newly-named "World Trade Center cough." According to the Firefighters Union, nearly 750 firefighters have taken medical leave since the cleanup began.

The air conditions in the surrounding neighborhood also have raised the community's anxiety. With private studies sometimes contradicting the Government, people don't know what to believe. I know there was a survey in October of local residents and nearly 35 percent said they did not feel that their homes were safe to live in, and about 80 percent wanted more information about their neighborhood's air quality. Parents of school children are understandably the most concerned, with the parents of some children apparently refusing to send their kids to school in the vicinity of Ground Zero.

If this great part of this great city is to begin to get back to normal, this situation has got to be clarified and resolved. That is why Senator Clinton asked me to convene this hearing today and why we are here to hear your testimony. We want to get to the truth as best we can to find out the answers to some of the questions that are on the minds of so many New Yorkers and so many others who have spent time at or around Ground Zero. Questions like what level of what contaminants were detected and where, to what were workers on the pile exposed, to what were people in the streets exposed? Are there still hazards in places of work or places of residence or places of education?

We also want to find out how our Government responded on that fateful day and thereafter. There's no debate that the overall response of Government was and has continued to be excellent. It's certainly not our intent to re-enact or second-guess every decision made in what were some of the most difficult circumstances imaginable.

But as we go forward as a Nation in the struggle against terrorism, it is our obligation to learn as much as we possibly can about the lingering consequences of the attack on New York on September 11th. It is in that spirit that we're here today.

I know there's been confusion in the press and the public about which Agency, which level of government has been responsible for what part of the air quality monitoring. That's a question we're

going to ask, too, because our citizens need to know who's responsible. Accountability starts with cleaner lines of authority, and we need to clarify how our Government has organized its response to this part, this lingering part of the attack.

Representatives of the agencies before us were on the site 5 months ago today, anticipating many of the air quality problems and working to evaluate them. This morning, we're going to assess what has been learned and consider what can be done to address the gaps and overlaps and occasional contradictions in the reporting of that data.

Finally, we've got to ensure that we do everything we can to get the necessary help to those who may have been exposed to hazards in the course of this experience. We've got to locate, register and monitor the people who might have been exposed, especially the heroic first responders, who plunged into the danger onto the pile with no regard for what toxins might lurk in the rubble, not to mention the air. This includes of course all those from New York, but all those from outside who rushed here to be of help.

As we continue to move forward from September 11th as a Nation with remarkable unity and resolve to root out those who did this to us, we cannot let its aftermath damage you or us any more through the air you have inhaled or continue to inhale.

This morning, we've got a very knowledgeable and diverse group of witnesses who can help to educate us and all New Yorkers about these pressing questions. I hope when we leave here today everyone in the room, including the U.S. Senate, as represented by Senator Clinton and me, will have a clearer understanding based on the facts of what is and is not unsafe in the air, and what we together can do to protect the health and safety of the people of New York.

I want to again thank Senator Clinton and say to you, I've known Senator Clinton for more than a few years, from her time at law school in my home city of New Haven. I'm not going to mention the years, she remains remarkably youthful and vital. She has been an extraordinary addition to the U.S. Senate, obviously very bright, extremely able, but has worked tirelessly and very effectively on behalf of the people of New York, really from the beginning of her service in January 2001, but powerfully and passionately since September 11th.

I'm honored to be here at her request and proud to introduce her to you now.

I would be remiss in speaking before the Senate if I didn't mention that the State will soon be before both Houses looking for assistance in solving an issue that we have as a result of the World Trade Center with regard to transportation conformity and the Clean Air Act. We're working to assure the environmental community and the citizens that while we do believe we need some relief in the planning requirements under that, that we by no means intend for it to have any negative environmental or air quality impacts whatsoever. We're working aggressively and frequently with the environmental community to bring forward a proposal that we believe both Houses would be able to support.

I did want to speak just briefly to the issue of the diesel truck emissions that's been raised a couple of times. The State has been using its authority under a State idling regulation to prevent idling. We've been as aggressive as we can be in making the drivers turn off the engines when they're in an idling situation. It's not allowed for more than 3 minutes in the city.

We have also been working in a multi-jurisdictional effort to try to bring relief to the site in the form of both lower sulfur fuel for the site and to try to bring some particulate traps and other control technologies to some of the equipment of the site. We didn't begin this until January or so, we are working very diligently with virtually every city agency that has any responsibility at the site and with the Northeast States for Coordinated Air Use Management and EPA. We're trying to bring a proposal forward. We have found that this is very complex, but we are still moving forward on trying to bring some relief from the ongoing operations at the site.

I just want to thank again the subcommittee. We appreciate being here.

Senator LIEBERMAN. Thank you, Mr. Johnson.

Commissioner Miele, thank you for being here, and I would urge you to respond to the critique from Mr. Goldstein, and to some extent from Congressman Nadler, who said in his statement that EPA had delegated authority to the city for indoor environmental consequences and had not followed up to make sure that the city's response was appropriate.

Dr. MIELE. Senator, if I may, the city has two responses. Dr. Frieden would like to lead off, if that's all right with you.

Senator LIEBERMAN. OK. I'd urge you to try to be as concise as you can, because time is running on and we've got a final panel to go.

**STATEMENT OF THOMAS R. FRIEDEN, M.D., COMMISSIONER,
NEW YORK CITY DEPARTMENT OF HEALTH; ACCOMPANIED
BY: JOEL A. MIELE, SR., COMMISSIONER, NEW YORK CITY
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Dr. FRIEDEN. Good morning. We do appreciate the opportunity to be here today.

Since being sworn in as health commissioner by the new administration, less than 2 weeks ago, I have reviewed the activities of the New York City Health Department and other agencies since the first day of the disaster. I would second what my State colleague has said. One of the most vivid pictures to emerge is one of unprecedented cooperation between local, State and Federal

health, environmental and occupational agencies. The teamwork is quite extraordinary.

Following the attack, the City Health Department had a multifaceted role. The health department immediately established systems to monitor first, emergency departments in the immediate vicinity to assess acute injuries; second, hospital staffing and equipment needs; third, illness and injuries among rescue workers; and fourth, unusual syndromes that might represent a bioterrorist event.

Other responsibilities included ensuring water and food safety in the immediate area, conducting rodent and vector control, initiating a worker safety program and providing regular advisories to the public and medical community. The Department also facilitated development and coordination of environmental sampling plans.

Many individuals were exposed to large amounts of smoke, dust, and airborne substances. The potential release of contaminants during and after the disaster was a primary public health concern from the beginning. Air monitoring was established immediately, and continues. The Health Department reviews the numerous air quality, debris sample results and personal air monitoring tests being conducted by various agencies. The data from air quality tests thus far have been, in general, reassuring. None of the test results done to date would indicate long-term health impacts.

The numerous substances of potential concern have led to some confusion about health effects over the short and long term. Some substances, such as the particulate matter from the dust or smoke in the air, are irritating but are not expected to have long-term health effects. Other substances, most notably asbestos, are not expected to have short-term effects, but if elevated over long periods of time can cause serious health effects.

Asbestos was a known building component in the World Trade Center. Asbestos levels in the air at and around the site in the first few days were elevated. Fortunately, since that time, except for a few transient spikes found in outdoor air sampling, asbestos levels have been low and within standards.

With funding from FEMA, the Department of Health and the Federal ATSDR conducted a study of both air and dust samples taken in November and December of 2001 at 30 residential buildings in Lower Manhattan. As soon as we received the final results from ATSDR, we released them to building residents and owners and to the public. We will continue to release results as soon as they become available from ATSDR.

This study showed no elevated levels of asbestos in indoor air. Dust sample tests showed low levels of asbestos in some samples and fiberglass in some other dust samples. Asbestos and fiberglass can be a problem if they become airborne. Airborne fiberglass can cause cough and skin, throat and eye irritation. While these findings are not unexpected, they underscore the importance of proper cleaning to minimize exposure, as the DOH has repeatedly emphasized.

I would add that the use of wet wiping is an important and effective means of making our homes safe, and statements to the contrary are unhelpful.

The standards used are conservative. For example, for asbestos in outdoor air, we are using the indoor air quality standard for re-entry into a school after asbestos removal. Stringent standards are also being used for other substances in outdoor air, such as dioxins, identified at the perimeter of the site. Both duration of exposure and concentration of the substance are important to determine health effects.

Many standards which we are applying were based on exposures for prolonged periods of time. The long-term health risks associated with short-term exposures are not well documented, but are generally believed to be quite low.

As fires at the WTC site burned far longer than anticipated, many residents living and working in the community, in particular rescue workers, have reported health effects, such as acute breathing problems, worsening of asthma, eye, nose, and throat irritation, nausea, and headaches. Many residents also continue to experience significant psychological and stress-related illness and anxiety.

Students of Stuyvesant High School, who returned to their school on October 9, 2001, reported similar complaints. A DOH analysis shows that the average daily rate of headaches, respiratory, skin, eye, and throat complaints at Stuyvesant was higher than in the previous year and higher than in four other New York City public high schools. The data also show that complaints decreased from October to November 2001. We will continue to monitor this situation.

The department has been working with the Centers for Disease Control and Prevention to develop a protocol for a WTC Registry. Since September 11th, we have all had to live in a world of greater uncertainty. While we know that the air meets safety standards today, we cannot state unequivocally that there will be no long-term health effects of exposures on or around September 11th. We simply do not know. For that reason, rapid funding and implementation of the registry is particularly important. The registry will enable scientists to evaluate the long-term health effects as objectively and comprehensively as possible.

But with every day that passes, implementation of a registry becomes more difficult. We therefore urge our colleagues to avoid any further delay in this very important project which you have spearheaded.

Finally, the City Health Department recognizes residents' concerns and will continue to work closely with local, State and Federal agencies to monitor air quality and to inform the public of findings as soon as they are available. Together with the City Department of Mental Health, which is also under my jurisdiction, we are addressing residents' mental health concerns by promoting the ongoing Project Liberty program, a statewide disaster-recovery initiative that offers free crisis counseling, education and referral services. DOH will continue its community outreach and education efforts.

Now I would like to turn to Commissioner Miele.

Dr. MIELE. Thank you, Dr. Frieden, Senator Lieberman and Senator Clinton. It's a pleasure to be here. My name is Joel Miele, and I'm the commissioner of the New York City Department of Environmental Protection.

In addition to the DEP's operation of the city's sewer and water systems, which by the way withstood the attack well, our expertise in regulating asbestos in New York City was a significant portion of our responsibilities following September 11th. Since 1985, DEP has been the New York City agency with responsibility for regulating asbestos abatement. Starting September 12, DEP operated a network of outdoor air monitors that have been used for monitoring outdoor asbestos levels. Aside from repairing water and sewer infrastructure, assessing and mitigating risks caused by the presence of asbestos-containing material has dominated DEP's work in responding to the Trade Center attack.

Since September 11th, DEP or its contractors analyzed 3,060 samples from 37 outdoor monitoring sites in Lower Manhattan; 500 samples collected adjacent to the four schools in the vicinity of the Trade Center; and 328 samples taken in the four boroughs of the city outside of Manhattan. The map and all sampling results to date from the sites shown on this map are available to anyone on DEP's website: www.nyc.gov/dep.

Of these samples, only 9 of the total of 3,864, or $\frac{2}{10}$ of 1 percent, exceeded the Federal re-occupancy standard for indoor air. These nine samples were all taken in the vicinity of Ground Zero. As Commissioner Frieden noted, there is no established standard for asbestos in outdoor air. Unlike carbon monoxide, nitrogen oxides and other gases whose presence in outside air is regulated under the Clean Air Act, asbestos is a once-prevalent building material, and previous work at standard-setting has focused on establishing safe levels for asbestos within buildings.

On September 12, when my colleagues and I at all three levels of Government were creating our monitoring networks, we knew that there were no reliable, scientifically based, acceptable standards that would tell us what level of asbestos in outdoor air might be considered "safe" or "unsafe." Therefore, we opted to use EPA's indoor post abatement re-occupancy of schools standard as our threshold level of concern since we felt it was more protective.

Let me briefly explain our sampling methodology. The samples are collected on filters and examined under Phase Contrast Microscopy utilizing a specific method developed by the National Institutes for Occupational Safety and Health. The PCM analysis counts all fibrous particles, including asbestos. PCM sample results are compared to the clearance/re-occupancy standard for indoor air following an asbestos abatement project. This standard is 0.01 fibers per cubic centimeter. Samples found to be above this standard are re-examined using Transmission Electron Microscopy. The TEM analysis identifies the type of particles collected. TEM results are compared to the clearance/re-occupancy standard for indoor air in schools after an asbestos abatement project. This standard is 70 structures of asbestos per square millimeter. The standard was established pursuant to the Federal Asbestos Hazard and Emergency Response Act, also known as AHERA.

Based on all Federal, State and local test results, public health experts have consistently expressed confidence that, based on sampling, airborne asbestos levels do not pose a threat to human health. Health professionals have stated that short-term exposure

to airborne asbestos, at levels equal to or lower than 0.01, carries an extremely low risk of causing asbestos-related illness.

Before allowing occupants in any residential or commercial building near the Trade Center site, the city's various agencies, acting through its Office of Emergency Management, required building owners to take the following steps. Assess the building's structural strength and stability using qualified professionals. Restore gas and electrical service. Restore building water service, including flushing, re-filling and cleaning roof tanks where necessary. Assess the presence of hazardous materials such as asbestos, and remediate as required under applicable city regulations using qualified professionals. Finally, inspect, clean and repair mechanical and HVAC systems.

While property owners were accomplishing these tasks, DEP and its sister agencies, again acting through the Office of Emergency Management, assumed responsibility for cleaning streets, sidewalks and common areas so that there was a safe outdoor environment to reach the buildings for contractors and workers who were retained by owners and managers to effect all necessary exterior and interior cleanup of private buildings. To assist property owners, DEP engaged in the following tasks, among others.

Developed and distributed advisories to building owners and occupants; established HELP lines for concerned owners or tenants to respond to complaints or concerns about proper abatement procedures for contractors; provided telephone consultation to building owners, contractors, consultants and tenants related to asbestos cleanup; performed site inspections and conducted building surveys; reviewed sampling data submitted by building owners, their contractors and consultants; reviewed the scopes of work for cleanup of asbestos-containing material; and developed emergency certification procedures and offered daily certification exams to ensure a properly trained and qualified work force was available.

Although city, State and Federal agencies have provided oversight and guidance on interior cleanup, that task remains the responsibility of building owners and occupants. For example, some building owners identified the presence of asbestos-containing material during their assessment for hazardous materials in areas of the buildings under their control. Once material is identified as ACM, New York City rules require that a licensed contractor with certified asbestos workers perform the cleanup activities.

As noted above, DEP technical staff has been continuously available to assist in the development of plans for handling asbestos cleanup activities. At the completion of the cleanup activities, the city's regulations require clearance air sampling by licensed professionals prior to allowing re-occupancy of areas where asbestos work had been performed.

The city, through the Office of Emergency Management, looks forward to working with Senator Clinton in developing an improved indoor air quality program. With respect to the question that was raised earlier by Congressman Nadler and Mr. Goldstein, the issue of the DEP, the agency's name tends unfortunately to be a little bit of a misnomer. The agency is primarily involved in running and operating the water and sewer systems of the city of New York. The staff available for asbestos and hazmat, while adequate

except in the case of a catastrophic such as occurred here, has always been adequate for the services that we've needed, whether it was for asbestos abatement or the occasional hazardous materials situation that arises.

I appreciate the opportunity.

Senator LIEBERMAN. Thanks, Commissioner. So did EPA federally make a mistake in reaching a judgment that the city environmental protection department was in charge of indoor air quality?

Dr. MIELE. No, I think what they really meant by that was that the outdoor air quality had been checked. It was very clear to us in our daily meetings, and we met, all three levels of government, each day for as much time as it took to understand what was occurring in the past 24 hours and to decide what we were going to do in the next 24 hours.

But essentially what happened, as you've heard here already, the outside air immediately started clearing up dramatically. There was a steep drop in the curve. By the time we permitted people to go back into the interior buildings, we were very comfortable that the level of materials outside were well below the regulatory standards.

Consequently, when the buildings were entered, they were entered not by the occupants, but by qualified experts to determine whether there was an air problem within the buildings or not, and whether cleanup was required. That work was done in each case. What we did after that is, when the public was allowed back in, after we were comfortable with the material that had been done and we knew the buildings had been cleaned, the owners then permitted reoccupancy.

If any tenant had any question, they could call us, did call us on occasion. We would come out, we would question the results, take a look at the results of the cleanup that had been done, and the air testing that had been done, and if we had any questions, we did our own air testing. There were only minimal situations where that occurred, and in each case where it did occur, we were comfortable that the air was acceptable.

Senator LIEBERMAN. So you're testifying that——

[Interruption from audience.]

Hold on, we'll come back to you.

You're saying that every building was tested, every building had its indoor air tested before people were allowed to go back in.

Dr. MIELE. That's the city regulation. That's correct, sir.

[Interruption from audience.]

Senator LIEBERMAN. We're going to come back to you. Hold on a second.

Ms. Kenny, Congressman Nadler made some very direct and serious challenges to the EPA, and I want your response. The first is, that EPA Administrator Whitman misled the public on September 18 last year, when she said she was glad to reassure the people of New York that their air is safe to breathe and their water is safe to drink. She made the statement without the indoor data necessary to make such a pronouncement.

Dr. Thurston seemed at least in part to corroborate Congressman Nadler's statement when he said that EPA gave assurances pre-



NEWS

Health Problems of 9/11 Rescuers in New York Continue Five Years After Terrorist Attack

October 31, 2009 11:03 PM

The fifth anniversary of the September 11th terrorist attacks in New York has focused attention on the plight of emergency personnel who went to the site of the demolished World Trade Center towers. As VOA's Melinda Smith reports, a large health study of the thousands of workers at Ground Zero shows many with chronic respiratory ailments.

"It was like a black cloud over that whole area and you couldn't see ten feet [three meters] in front of you," remembers John Walcott.

"I collapsed," says Robert Ryan of his experience. "I couldn't get any air into my lungs and I was...I went...I went into a panic."

John Walcott and Robert Ryan are among the thousands of first responders who carry the burden of that tragedy, five years later. Both men plunged into the heavy gray smoke to rescue others. Robert Ryan says he was later forced to leave the fire department because of his illness. His lungs are now so damaged he says he can barely play sports with his son:

"After about ten minutes, I always have to stop, catch my breath, and it's at the point now," Ryan tells us, "and he'll stop and say, 'Are you okay, Daddy? Do you need to stop?'"

The toxic dust from the World Trade Center has affected almost 70 percent of the 10,000 rescuers at the site, as well as workers who hauled the debris away to a landfill. A recent study found many inhaled heavy metals such as nickel, titanium and cadmium into their lungs. Sixty percent of those with respiratory illness had not shown symptoms of the disease before 9/11.

Pneumonia was a common diagnosis in the first six months after the tragedy. Dr. Robin Herbert directs the World Trade Center medical monitoring program.

"Somebody has to take responsibility and make sure these folks get the care they need."

Officials from the state of New York and the U.S. government have pledged \$52 million to pay for treatment of these workers. Dr. Herbert says that's not enough:

"My worry is that money will be gone in a year, and what happens then?" she asks.

Many of the victims are skeptical about how much help they will eventually receive. They point to assurances by former Mayor Rudolph Giuliani, who led New York City's rescue effort:

"The air quality is safe and acceptable," said the mayor at the time.

Dr. Robin Herbert disagrees. "What we saw, in those first two months, was really very startling and very, very disturbing. You could see that there were these chemical burns."

A month after the terrorist attacks, a health department memo showed internal disagreement about the quality of air at the site. There was reportedly pressure to reopen streets from merchants and business owners in the neighborhood. At the same time, environmental officials expressed concern about the toxic air.

Thousands of sick workers are now questioning who will pay for their continuing medical care and have filed a lawsuit against the city government and contractors who hired them. The current mayor of New York City, Michael Bloomberg says the health study does not prove a direct link to conditions at the site:

"There is no way to tell for sure...and you have to be very careful. If I say I've got something because of this, it's just not the way science works."

Former firefighter Robert Ryan disagrees. "Every fireman, cop that went down there...nobody thought about your own safety. That's not what we do. I'm just asking for a little help. A little help getting by every day."

Other health problems include depression, and post-traumatic stress. Medical experts plan to release another study of Ground Zero's effect on rescuers' mental health in the near future.

EXHIBIT 21

Public Law 107-71
107th Congress

An Act

To improve aviation security, and for other purposes.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Aviation and Transportation
Security Act”.

Nov. 19, 2001

[S. 1447]

Aviation and
Transportation
Security Act.
49 USC 40101
note.

TITLE I—AVIATION SECURITY

SEC. 101. TRANSPORTATION SECURITY ADMINISTRATION.

(a) **IN GENERAL.**—Chapter 1 of title 49, United States Code,
is amended by adding at the end the following:

“§ 114. Transportation Security Administration

“(a) **IN GENERAL.**—The Transportation Security Administration
shall be an administration of the Department of Transportation.

“(b) **UNDER SECRETARY.**—

“(1) **APPOINTMENT.**—The head of the Administration shall
be the Under Secretary of Transportation for Security. The
Under Secretary shall be appointed by the President, by and
with the advice and consent of the Senate.

“(2) **QUALIFICATIONS.**—The Under Secretary must—

“(A) be a citizen of the United States; and

“(B) have experience in a field directly related to
transportation or security.

“(3) **TERM.**—The term of office of an individual appointed
as the Under Secretary shall be 5 years.

“(c) **LIMITATION ON OWNERSHIP OF STOCKS AND BONDS.**—The
Under Secretary may not own stock in or bonds of a transportation
or security enterprise or an enterprise that makes equipment that
could be used for security purposes.

“(d) **FUNCTIONS.**—The Under Secretary shall be responsible for
security in all modes of transportation, including—

“(1) carrying out chapter 449, relating to civil aviation
security, and related research and development activities; and

“(2) security responsibilities over other modes of transpor-
tation that are exercised by the Department of Transportation.

“(e) **SCREENING OPERATIONS.**—The Under Secretary shall—

“(1) be responsible for day-to-day Federal security screening
operations for passenger air transportation and intrastate air
transportation under sections 44901 and 44935;

“(2) develop standards for the hiring and retention of security screening personnel;

“(3) train and test security screening personnel; and

“(4) be responsible for hiring and training personnel to provide security screening at all airports in the United States where screening is required under section 44901, in consultation with the Secretary of Transportation and the heads of other appropriate Federal agencies and departments.

“(f) ADDITIONAL DUTIES AND POWERS.—In addition to carrying out the functions specified in subsections (d) and (e), the Under Secretary shall—

“(1) receive, assess, and distribute intelligence information related to transportation security;

“(2) assess threats to transportation;

“(3) develop policies, strategies, and plans for dealing with threats to transportation security;

“(4) make other plans related to transportation security, including coordinating countermeasures with appropriate departments, agencies, and instrumentalities of the United States Government;

“(5) serve as the primary liaison for transportation security to the intelligence and law enforcement communities;

“(6) on a day-to-day basis, manage and provide operational guidance to the field security resources of the Administration, including Federal Security Managers as provided by section 44933;

“(7) enforce security-related regulations and requirements;

“(8) identify and undertake research and development activities necessary to enhance transportation security;

“(9) inspect, maintain, and test security facilities, equipment, and systems;

“(10) ensure the adequacy of security measures for the transportation of cargo;

“(11) oversee the implementation, and ensure the adequacy, of security measures at airports and other transportation facilities;

“(12) require background checks for airport security screening personnel, individuals with access to secure areas of airports, and other transportation security personnel;

“(13) work in conjunction with the Administrator of the Federal Aviation Administration with respect to any actions or activities that may affect aviation safety or air carrier operations;

“(14) work with the International Civil Aviation Organization and appropriate aeronautic authorities of foreign governments under section 44907 to address security concerns on passenger flights by foreign air carriers in foreign air transportation; and

“(15) carry out such other duties, and exercise such other powers, relating to transportation security as the Under Secretary considers appropriate, to the extent authorized by law.

“(g) NATIONAL EMERGENCY RESPONSIBILITIES.—

“(1) IN GENERAL.—Subject to the direction and control of the Secretary, the Under Secretary, during a national emergency, shall have the following responsibilities:

“(A) To coordinate domestic transportation, including aviation, rail, and other surface transportation, and maritime transportation (including port security).

“(B) To coordinate and oversee the transportation-related responsibilities of other departments and agencies of the Federal Government other than the Department of Defense and the military departments.

“(C) To coordinate and provide notice to other departments and agencies of the Federal Government, and appropriate agencies of State and local governments, including departments and agencies for transportation, law enforcement, and border control, about threats to transportation.

“(D) To carry out such other duties, and exercise such other powers, relating to transportation during a national emergency as the Secretary shall prescribe.

“(2) AUTHORITY OF OTHER DEPARTMENTS AND AGENCIES.—

The authority of the Under Secretary under this subsection shall not supersede the authority of any other department or agency of the Federal Government under law with respect to transportation or transportation-related matters, whether or not during a national emergency.

“(3) CIRCUMSTANCES.—The Secretary shall prescribe the circumstances constituting a national emergency for purposes of this subsection.

“(h) MANAGEMENT OF SECURITY INFORMATION.—In consultation with the Transportation Security Oversight Board, the Under Secretary shall—

“(1) enter into memoranda of understanding with Federal agencies or other entities to share or otherwise cross-check as necessary data on individuals identified on Federal agency databases who may pose a risk to transportation or national security;

“(2) establish procedures for notifying the Administrator of the Federal Aviation Administration, appropriate State and local law enforcement officials, and airport or airline security officers of the identity of individuals known to pose, or suspected of posing, a risk of air piracy or terrorism or a threat to airline or passenger safety;

“(3) in consultation with other appropriate Federal agencies and air carriers, establish policies and procedures requiring air carriers—

“(A) to use information from government agencies to identify individuals on passenger lists who may be a threat to civil aviation or national security; and

“(B) if such an individual is identified, notify appropriate law enforcement agencies, prevent the individual from boarding an aircraft, or take other appropriate action with respect to that individual; and

“(4) consider requiring passenger air carriers to share passenger lists with appropriate Federal agencies for the purpose of identifying individuals who may pose a threat to aviation safety or national security.

“(i) VIEW OF NTSB.—In taking any action under this section that could affect safety, the Under Secretary shall give great weight to the timely views of the National Transportation Safety Board.

“(j) ACQUISITIONS.—

“(1) IN GENERAL.—The Under Secretary is authorized—

“(A) to acquire (by purchase, lease, condemnation, or otherwise) such real property, or any interest therein, within and outside the continental United States, as the Under Secretary considers necessary;

“(B) to acquire (by purchase, lease, condemnation, or otherwise) and to construct, repair, operate, and maintain such personal property (including office space and patents), or any interest therein, within and outside the continental United States, as the Under Secretary considers necessary;

“(C) to lease to others such real and personal property and to provide by contract or otherwise for necessary facilities for the welfare of its employees and to acquire, maintain, and operate equipment for these facilities;

“(D) to acquire services, including such personal services as the Secretary determines necessary, and to acquire (by purchase, lease, condemnation, or otherwise) and to construct, repair, operate, and maintain research and testing sites and facilities; and

“(E) in cooperation with the Administrator of the Federal Aviation Administration, to utilize the research and development facilities of the Federal Aviation Administration.

“(2) TITLE.—Title to any property or interest therein acquired pursuant to this subsection shall be held by the Government of the United States.

“(k) TRANSFERS OF FUNDS.—The Under Secretary is authorized to accept transfers of unobligated balances and unexpended balances of funds appropriated to other Federal agencies (as such term is defined in section 551(1) of title 5) to carry out functions transferred, on or after the date of enactment of the Aviation and Transportation Security Act, by law to the Under Secretary.

“(l) REGULATIONS.—

“(1) IN GENERAL.—The Under Secretary is authorized to issue, rescind, and revise such regulations as are necessary to carry out the functions of the Administration.

“(2) EMERGENCY PROCEDURES.—

“(A) IN GENERAL.—Notwithstanding any other provision of law or executive order (including an executive order requiring a cost-benefit analysis), if the Under Secretary determines that a regulation or security directive must be issued immediately in order to protect transportation security, the Under Secretary shall issue the regulation or security directive without providing notice or an opportunity for comment and without prior approval of the Secretary.

“(B) REVIEW BY TRANSPORTATION SECURITY OVERSIGHT BOARD.—Any regulation or security directive issued under this paragraph shall be subject to review by the Transportation Security Oversight Board established under section 115. Any regulation or security directive issued under this paragraph shall remain effective unless disapproved by the Board or rescinded by the Under Secretary.

“(3) FACTORS TO CONSIDER.—In determining whether to issue, rescind, or revise a regulation under this section, the Under Secretary shall consider, as a factor in the final determination, whether the costs of the regulation are excessive in relation to the enhancement of security the regulation will

SEC. 145. AIR CARRIERS REQUIRED TO HONOR TICKETS FOR SUSPENDED SERVICE.49 USC 40101
note.

(a) **IN GENERAL.**—Each air carrier that provides scheduled air transportation on a route shall provide, to the extent practicable, air transportation to passengers ticketed for air transportation on that route by any other air carrier that suspends, interrupts, or discontinues air passenger service on the route by reason of insolvency or bankruptcy of the other air carrier.

(b) **PASSENGER OBLIGATION.**—An air carrier is not required to provide air transportation under subsection (a) to a passenger unless that passenger makes alternative arrangements with the air carrier for such transportation within 60 days after the date on which that passenger's air transportation was suspended, interrupted, or discontinued (without regard to the originally scheduled travel date on the ticket).

Deadline.

(c) **SUNSET.**—This section does not apply to air transportation the suspension, interruption, or discontinuance of which occurs more than 18 months after the date of enactment of this Act.

SEC. 146. AIRCRAFT OPERATIONS IN ENHANCED CLASS B AIRSPACE.*Federal Register,*
publication.

Upon request of an operator of an aircraft affected by the restrictions imposed under Notice to Airmen FDC 1/0618 issued by the Federal Aviation Administration, or any other notice issued after September 11, 2001, and prior to the date of enactment of this Act that restricts the ability of United States registered aircraft to conduct operations under part 91 of title 14, Code of Federal Regulations, in enhanced class B airspace (as defined by such Notice), such restrictions shall cease to be in effect for the affected class of operator beginning on the 30th day following the request, unless the Secretary of Transportation publishes a notice in the Federal Register before such 30th day reimposing the restriction and explaining the reasons for the restriction.

SEC. 147. AVIATION WAR RISK INSURANCE.

Section 44306(b) of title 49, United States Code, is amended by striking “60 days” each place it appears and inserting “1 year”.

TITLE II—LIABILITY LIMITATION**SEC. 201. AIR TRANSPORTATION SAFETY AND SYSTEM STABILIZATION ACT AMENDMENTS.**

(a) **RECOVERY OF COLLATERAL SOURCE OBLIGATIONS OF TERRORISTS.**—Section 405(c)(3)(B)(i) of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended by striking “obligations.” and inserting “obligations, or to a civil action against any person who is a knowing participant in any conspiracy to hijack any aircraft or commit any terrorist act.”

(b) **EXTENSION OF LIABILITY RELIEF TO AIRCRAFT MANUFACTURERS AND OTHERS.**—Section 408 of that Act is amended—

(1) by striking “**air carrier**” in the section heading;

(2) by striking subsection (a) and inserting the following:

49 USC 40101
note.

“(a) IN GENERAL.—

“(1) LIABILITY LIMITED TO INSURANCE COVERAGE.—Notwithstanding any other provision of law, liability for all claims, whether for compensatory or punitive damages or for contribution or indemnity, arising from the terrorist-related aircraft crashes of September 11, 2001, against an air carrier, aircraft manufacturer, airport sponsor, or person with a property interest in the World Trade Center, on September 11, 2001, whether fee simple, leasehold or easement, direct or indirect, or their directors, officers, employees, or agents, shall not be in an amount greater than the limits of liability insurance coverage maintained by that air carrier, aircraft manufacturer, airport sponsor, or person.

“(2) WILLFUL DEFAULTS ON REBUILDING OBLIGATION.—Paragraph (1) does not apply to any such person with a property interest in the World Trade Center if the Attorney General determines, after notice and an opportunity for a hearing on the record, that the person has defaulted willfully on a contractual obligation to rebuild, or assist in the rebuilding of, the World Trade Center.

“(3) LIMITATIONS ON LIABILITY FOR NEW YORK CITY.—Liability for all claims, whether for compensatory or punitive damages or for contribution or indemnity arising from the terrorist-related aircraft crashes of September 11, 2001, against the City of New York shall not exceed the greater of the city’s insurance coverage or \$350,000,000. If a claimant who is eligible to seek compensation under section 405 of this Act, submits a claim under section 405, the claimant waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001, including any such action against the City of New York. The preceding sentence does not apply to a civil action to recover collateral source obligations.”; and

(3) by adding at the end of subsection (c) the following: “Subsections (a) and (b) do not apply to civil actions to recover collateral source obligations. Nothing in this section shall in any way limit any liability of any person who is engaged in the business of providing air transportation security and who is not an airline or airport sponsor or director, officer, or employee of an airline or airport sponsor.”.

(c) LIMITATION OF UNITED STATES SUBROGATION RIGHT.—Section 409 of that Act is amended by striking “title.” and inserting “title, subject to the limitations described in section 408.”.

(d) DEFINITIONS.—Section 402 of that Act is amended—

(1) by adding at the end of paragraph (1) the following: “The term ‘air carrier’ does not include a person, other than an air carrier, engaged in the business of providing air transportation security.”.

(2) by redesignating paragraphs (3) through (8) as paragraphs (5) through (10), respectively; and

49 USC 40101
note.

49 USC 40101
note.

(3) by inserting after paragraph (2) the following:

“(3) AIRCRAFT MANUFACTURER.—The term ‘aircraft manufacturer’ means any entity that manufactured the aircraft or any parts or components of the aircraft involved in the terrorist related aircraft crashes of September 11, 2001, including employees and agents of that entity.

“(4) AIRPORT SPONSOR.—The term ‘airport sponsor’ means the owner or operator of an airport (as defined in section 40102 of title 49, United States Code).”.

Approved November 19, 2001.

LEGISLATIVE HISTORY—S. 1447 (H.R. 3150):

HOUSE REPORTS: No. 107-296 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 147 (2001):

Oct. 10, 11, considered and passed Senate.

Nov. 6, considered and passed House, amended, in lieu of H.R. 3150.

Nov. 16, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 37 (2001):

Nov. 19, Presidential statement.

