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December 10, 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the response of the City of New York ("City") to the September 11, 2001 collapse of the World Trade Center, along with historical documents and disaster preparation materials.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, reading "Andrew J. Carboy". The signature is written in dark ink and is positioned above a horizontal line.

Andrew J. Carboy

A handwritten signature in cursive script, reading "Matthew McCauley". The signature is written in dark ink and is positioned above a horizontal line.

Matthew McCauley

EXHIBIT 1

Law Offices of Andrew J. Carboy LLC

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(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?

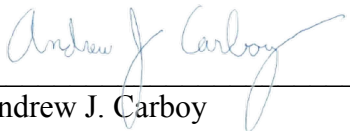
Any records, communications, or memos from the New York City Departments of Health and the Environmental Protection that address the scope and toxicity of the WTC plume and the dust, and the exposures New Yorkers experienced

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.”*

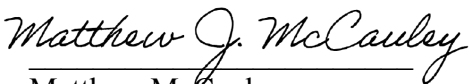
Apparently, notwithstanding its obligations under the Freedom of Information Law, the City will not produce these materials absent desired and undefined “protection” from future liability claims it apparently fears the documents will substantiate.

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/FOIL-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.

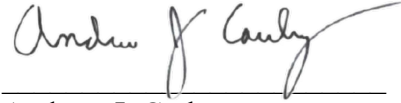
d. Documents setting forth the amount of compensation issued/paid by the City to the consultants and consulting firms, lobbyists and lobbying firms identified in response to request c., above.

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, appearing to read "Andrew J. Carboy", written over 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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(<http://www1.nyc.gov/home/privacy-policy.page>).
[Terms of Use](#) (<http://www1.nyc.gov/home/terms-of-use.page>).



(/)

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>)

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](#)Powered by [Google Translate](#)[Request a Record](#)[Search Requests](#)[Reports](#)[FAQ](#)[About](#)[Technical Support](#)**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





Select Language

Powered by Google Translate

Request a Record

Search Requests

Reports

FAQ

About

Technical Support

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 ?

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



MICHAEL A. CARDOZO
Corporation Counsel

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

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 black ink, appearing to read "Eric Adams". The signature is fluid and cursive, with the first name "Eric" and last name "Adams" clearly distinguishable.

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*, 9/11 Health Watch, <https://www.911healthwatch.org/effort-to-get-new-york-city-to-release-9-11-documents/>

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

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

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

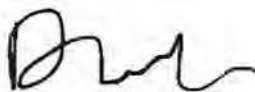
In other regards, we believe this administration has been a tremendous partner to the New York Congressional delegation in supporting 9/11 victims, survivors, and their families. Just this past year, your administration supported our work to provide additional funding for the World Trade Center Health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

We look forward to your response.

Sincerely,



JERROLD NADLER
Member of Congress



DAN GOLDMAN
Member of Congress

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)

-against-

Index No: 515104/2022
Motion Seq. 5

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 NYCCR § 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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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.

Problems Plague Ground Zero Workers,"

suggested that the rescue phase of the op-
ade 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
(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

k, 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
eposition in 2005 that a deputy mayor
-incident commander. He said that all it
oint daily meetings rather than sending
ney 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 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
LS #17367
5/6/2025 11:45 AM



THE NEW YORK CITY COUNCIL

Adrienne E. Adams, Speaker

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The New York City Council - Action Details

Details

File #: Res 0560-2024 Version: [A](#)

Type: Resolution

On agenda: 9/12/2024

Enactment date:

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

Sponsors: [Gale A. Brewer](#), [Alexa Avilés](#), [Linc Rosa](#), [Lynn C. Schulman](#), [Farah N. Amanda Fariás](#), [Oswald Feliz](#), [Chris G. Giddens](#)

Council Member Sponsors: 27

Attachments: 1. [Res. No. 560](#), 2. [September 12, 2024](#), 5. [Committee Report 1](#), 7. [Committee Report 2](#), 8. [Committee Report 3](#), 9. [Committee Report 4](#), 10. [Committee Report 5](#)File #: Res 05602024 Version: [A](#)

Type: Resolution

Title: DOI 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.

Mover: Secondeder:

Result: Pass

Agenda note: Amended and Adopted by the Committee on Oversight and Investigations

Minutes note: Pursuant to Rule 8.50 of the Council, the Majority Leader and Acting President Pro Tempore (Council Member Fariás) called for a voice vote. Hearing no objections, the Majority Leader and Acting President Pro Tempore (Council Member Fariás) declared the Resolution to be adopted. Adopted unanimously by the Council by voice-vote.

Action: Approved, by Council

Action text: A motion was made that this Resolution be Approved, by Council approved by voice vote.

Votes (0:0)

0 records

[History \(9\)](#) [Text](#)

9 records	Group	Export	
Date	Ver.	Prime Sponsor	Action By
7/14/2025	A	Gale A. Brewer	City Council
7/14/2025	*	Gale A. Brewer	Committee on Over
7/14/2025	*	Gale A. Brewer	Committee on Over
7/14/2025	*	Gale A. Brewer	Committee on Over
7/14/2025	A	Gale A. Brewer	Committee on Over
1/29/2025	*	Gale A. Brewer	Committee on Over
1/29/2025	*	Gale A. Brewer	Committee on Over
9/12/2024	*	Gale A. Brewer	City Council
9/12/2024	*	Gale A. Brewer	City Council

Person Name	Vote
No records to display.	

Laid Over by Committee	Action details	Meeting details	Not available
Referred to Comm by Council	Action details	Meeting details	Not available
Introduced by Council	Action details	Meeting details	Not available

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."