

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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In the Matter of the Application of
BENJAMIN CHEVAT,

Index No.

Petitioner,

For a Judgment Pursuant to Article 78 of the Civil
Practice Law and Rules,

-against-

THE CITY OF NEW YORK: OFFICE OF THE MAYOR,
NEW YORK CITY LAW DEPARTMENT and
NEW YORK CITY DEPARTMENT OF DESIGN and
CONSTRUCTION,

Respondents.

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VERIFIED PETITION OF BENJAMIN CHEVAT

STATE OF MARYLAND

COUNTY OF MONTGOMERY

BENJAMIN CHEVAT, a resident of the State of Maryland, being over the age of eighteen (18) years, and understanding that this document will be submitted to the Supreme Court of the County of New York, affirms under New York State's penalties of perjury, including fines and imprisonment, that the following is true to the best of my knowledge, except as to matters alleged on information and belief and as to those matters I believe them to be true:

1. I am the Director of 911 Health Watch, Inc. ("911 Health Watch") and the Petitioner in this Article 78 proceeding challenging the respondents' denial of my Freedom of Information Law request. (**Exhibits 1 and 2:** FOIL request and modification; **Exhibits 13 and 22:** December

12, 2025 and March 8, 2026 administrative appeals; **Exhibits 14, 15 and 23**: Denials/denials of appeals)

2. 911 Health Watch is an independent 501(c)3 “Watch Group” established by the New York State AFL-CIO and other unions and advocates to monitor the programs created by the federal James Zadroga 9/11 Health and Compensation Act. We closely monitor the World Trade Center Health Program to ensure that injured and ill first responders and survivors receive the health care they require and deserve.

3. For years, I have sought public records concerning New York City’s response to the September 11th attacks and the collapse of the World Trade Center. Like so many others, I would like to know what then Mayor Giuliani and the City of New York knew about environmental conditions in lower Manhattan while assuring the public that the air was “safe and acceptable” to breathe. How many illnesses could have been prevented had the City shared what it actually knew? Obviously, this is a matter of great importance to me and to my organization. Government denial of any causal relationship between air conditions in lower Manhattan, following the September 11th attacks, and the surge of respiratory and cancer diagnoses impedes funding for medical care, treatment and research. We seek full disclosure of the City’s September 11th archive, now, and hope that it contains information that will garner additional support for programs such as the World Trade Center Health Program.

4. Respondents are the Mayor’s Office of the City of New York (“Mayor’s Office”), the New York City Law Department (“Law Department”) and the Department of Design and Construction (“DDC”). These agencies, tasked with leading roles in the response to the World Trade Center collapse have denied my FOIL requests and appeals. They claim to have no responsive documents.

5. As the Mayor's Office understood, as early as October 2001, if not well before: ***“Potential lawsuits against the City include health advisories causing individuals to return to the area too soon (causing toxic exposure)”*** (Exhibit 16: October 2001 memorandum to Deputy Mayor Robert Harding, privately obtained by Petitioner in 2026) As the City continued messaging air safety to the public, behind the scenes it lobbied the White House and Congress for liability protection for making those same proclamations. The City even fretted such advocacy, with potential explication of its concerns, would worsen matters. *“By advocating...we may be inviting litigation.”* (Exhibit 16) Clearly, for the reasons set forth in the accompanying attorney's affirmation in support, with exhibits, all incorporated by reference, the respondents continue to hold responsive documents.

6. Along with Karen Klingon, Executrix of the Estate of Robert Klingon, a lower Manhattan resident; 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., I sought documents from the City of New York (“City”) that should be freely available to the public.

7. Pursuant to the Freedom of Information Law (“FOIL”), on September 8, 2023, we requested records from the Mayor's Office (FOIL #2023-003-00733), Law Department (FOIL #2023-025-00368) and DDC (FOIL #2023-850-00138) regarding the response of the City to the collapse of the World Trade Center, along with historical documents and disaster preparation materials. (Exhibits 1 and 2) These public records concern risk assessments made by the City for the reopening of lower Manhattan in September 2001, and the City's knowledge of airborne toxic hazards, existing at that time.

8. We also requested documents explaining why the Mayor sought liability protection

from toxic exposure claims while the City assured the public that air quality remained “*safe and acceptable.*” (**Exhibit 20**: compilation of City air quality assurances, September 2001 through February 2002)

9. The respondents have repeatedly denied our requests (**Exhibits 1 and 2**) and have rejected our appeals. (**Exhibit 13** and **Exhibit 22**: appeals)(**Exhibits 13, 15 and 23**: Respondents’ responses and rejections) Accordingly, this action is necessary.

10. I seek the following relief:

- A) A declaration that the March 20, 2026 FOIL appeal denial (**Exhibit 23**) was arbitrary and capricious as the respondents failed to establish, with any precision or evidence, that a diligent search for the requested materials was actually performed;
- B) An Order directing the Mayor’s Office, answering on behalf of itself, the Law Department and DDC, to search archives, again, with diligence for the requested materials, and report, in detail, as to the steps it undertook during the search and provide all materials responsive to the FOIL request;
- C) A declaration that the March 20, 2026 FOIL appeal denial (**Exhibit 23**) was arbitrary and capricious as the respondents failed to establish, with any precision or evidence, that the requested materials do not exist and, in fact, support the contention that responsive documents exist and remain within their custody and control;
- D) A hearing to ascertain the scope and duration of any search previously undertaken by the Mayor’s Office in response to the FOIL request, with live testimony taken from the Records Appeal Officer and the Mayor’s records “searchers;”

- E) Attorneys' fees and costs incurred in taking the first administrative appeal and second administrative appeal (**Exhibit 13**: December 12, 2025 appeal; **Exhibit 22**: March 8, 2025 appeal); and
- F) Attorneys' fees and costs incurred in bringing this Article 78 proceeding and for all future motions, appearances, conferences, arguments, depositions, discovery, appeals, hearings and related work.

Conclusion

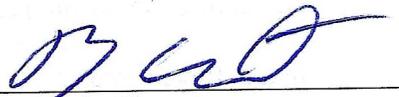
For the reasons set forth above, and for the reasons set forth in the accompanying attorney's affirmation in support, with exhibits, incorporated by reference, I respectfully request the following relief:

- A) A declaration that the March 20, 2026 FOIL appeal denial (**Exhibit 23**) was arbitrary and capricious as the respondents failed to establish, with any precision or evidence, that a diligent search for the requested materials was actually performed;
- B) An Order directing the Mayor's Office, answering on behalf of itself, the Law Department and DDC, to search archives, again, with diligence for the requested materials, and report, in detail, as to the steps it undertook during the search and provide all materials responsive to the FOIL request;
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- D) A hearing to ascertain the scope and duration of any search previously undertaken by the Mayor's Office in response to the FOIL request, with live testimony taken from the Records Appeal Officer and the Mayor's records "searchers;"
- E) Attorneys' fees and costs incurred in taking the first administrative appeal and second administrative appeal (**Exhibit 13**: December 12, 2025 appeal; **Exhibit 22**: March 8, 2025 appeal); and
- F) Attorneys' fees and costs incurred in bringing this Article 78 proceeding and for all future motions, appearances, conferences, arguments, depositions, discovery, appeals, hearings and related work.

March 29, 2026

Respectfully submitted,



Benjamin Chevat

VERIFICATION

STATE OF MARYLAND

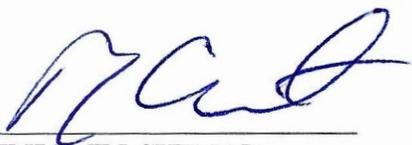
COUNTY OF MONTGOMERY

BENJAMIN CHEVAT, affirms and attests pursuant to the laws of the State of New York, as follows.

I am the Petitioner in this proceeding.

I now verify my Petition, above.

I affirm under the penalties of perjury imposed by the laws of New York, which may include jail/imprisonment and the imposition of fines/financial penalties, that the contents of the above Petition are true to the best of my knowledge. I understand that this Petition will be filed in a proceeding in a New York court, specifically, the Supreme Court of New York County.



BENJAMIN CHEVAT

March 29, 2026