NYC / EDC

August 24, 2026

VIA E-MAIL

Liam Blank
[redacted]

Re: Freedom of Information Law ("FOIL") Appeal

Dear Mr. Blank:

I am in receipt of your letter dated August 10, 2026 appealing (the "Appeal") Mr. Kurt Wintje, New York City Economic Development Corporation ("NYCEDC") Records Access Officer's FOIL response letter dated August 7, 2026, (the "FOIL Response"), responding to your initial two FOIL requests received by NYCEDC on June 23, 2026 and June 26, 2026, respectively, as narrowed by your July 18, 2026 modification letter and your further July 20, 2026 clarification (collectively, the "FOIL Request"), seeking the following:

1. The final and operative PDC Certificate 30399 design set, including available native CAD/BIM/GIS geometry and companion PDF's;
2. Final structural, bridge-foundation, clearance, utility and construction-staging records that directly affect the former Rockaway Beach Branch rail envelope;
3. Final MTA/LIRR comments, conflict analyses, response matrices, and design revisions addressing future rail or transit compatibility.

In response to your FOIL Request, Mr. Wintje advised you that, after searching NYCEDC's files and consulting with relevant project staff, NYCEDC is not in possession of any responsive records because the project has not yet reached the final design stage. In your Appeal you note that the stated basis for NYCEDC's determination that no responsive files exist "appears to apply a project-wide 100-percent-final-design threshold, while the narrowed requests sought final or operative records at the PDC, discipline, and agency-review levels that may exist before overall project design."

I have discussed your Appeal with Mr. Wintje and reviewed project staff response. Despite your assertion in your Appeal, on its face your FOIL Request seems to request only documents relevant to final design. The distinction you make in your Appeal is not clear from your FOIL Request, and NYCEDC's search of its files and Mr. Wintje's FOIL Response indicating we have no responsive files is based on NYCEDC's valid interpretation and understanding of your FOIL Request.

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For the reasons stated above, I am upholding Mr. Wintje's FOIL Response. However, I am treating this FOIL Appeal as a further clarification of your FOIL Request and, accordingly, remanding it to Mr. Wintje for further review and response.

You may seek judicial review of this determination pursuant to Article 78 of the New York Civil Practice Laws and Rules.

Very truly yours,

/s/ Judy Fensterman

FOIL Appeals Officer

cc: Committee on Open Government
New York Department of State
One Commerce Plaza
99 Washington Avenue, Suite 650
Albany, New York 12231

Kurt Wintje, NYCEDC