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") a portion of 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 June 26, 2026 FOIL request seeking electronic copies of existing records concerning procurement, contracting, scheduling and project delivery for the design, preconstruction and construction of QueensWay Metropolitan Hub and QueensWay Phase 1 (the "FOIL Request").

In response to your FOIL Request, Mr. Wintje provided you with an extensive number of documents, and advised you that he had (1) redacted portions of those documents that were determined to be exempt from disclosure pursuant to FOIL Section 87(2)(b) as information that constitutes an unwarranted invasion of personal privacy, including telephone numbers, email addresses and Federal Employer Identification Numbers and (2) withheld in their entirety two responsive documents consisting of non-final cost estimates that were determined to be exempt from disclosure pursuant to the following FOIL Sections: 87(2)(c), as containing information that, if disclosed, would impair present or imminent contract awards or collective bargaining negotiations; 87(2)(d), trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise; and 87(2)(g), inter-agency or intra-agency materials which are not: i. statistical or factual tabulations or date; ii. instructions to staff that affect the public; iii. Final agency policy or determinations; or iv. external audits, including but not limited to audits performed by the comptroller and the federal government.

Your Appeal specifically seeks review of NYCEDC's FOIL Response withholding in their entirety the two responsive documents identified as "non-final cost estimates" and also requests limited re-review of any contact information redacted under Section 87(2)(b) to the extent the redactions removed official government or business contact information solely because it was an email address or phone number.

I have discussed your Appeal with Mr. Wintje and reviewed the documents at issue. I am upholding Mr. Wintje's determination in his FOIL Response to withhold the "non-final cost estimates" prepared by NYCEDC's consultant on the basis of Section 87(2)(c) only, which permits documents to be withhold if they contain information that, if disclosed, would impair present or imminent contract awards. By way of explanation, the estimates relate to construction work that has not yet been bid and reflect NYCEDC's anticipated costs. If those cost estimates were released at this time it could give future bidders insight into NYCEDC's cost expectations and would enable them to prepare their bids based on those cost estimates, potentially resulting in higher bids than they would otherwise have submitted, to the detriment of NYCEDC and the City of New York.

In addition, your Appeal seeks review of the email addresses and phone numbers redacted pursuant to FOIL Section 87(2)(b) to the extent that they are work or business contact information versus personal email addresses and telephone numbers. Unfortunately, Mr. Wintje is on vacation until later this week and I am unable to review the document(s) containing that information to determine whether the email addresses are official work emails or the telephone numbers are cell phone numbers or official work phone numbers, i.e. is the listed telephone number the public's primary means of communicating with the employee versus a cell phone that is often a supplemental means of contacting the employee that should not necessarily be made available to the general public. Please note that Committee of Open Government FOIL AO 19656, dated April 2, 2018, made that distinction and found that disclosure of a record containing a public official's cell phone number would constitute an unwarranted invasion of personal privacy. I am therefore remanding this portion of your Appeal to Mr. Wintje and asking him to review the redacted email addresses and phone numbers when he returns to determine, to the extent possible, whether the redacted information is personal information or institutional business contact information.

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
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Albany, New York 12231

Kurt Wintje, NYCEDC