

# Re: Administrative Appeal of Denial of Freedom of Information Law (FOIL) Request for Records Related to Bid Number 5820 – Request for Master Redeveloper Proposal (Submitted by The Young Companies LLC)

From: Robert Cox  
robertcox@talkofthesound.com

To: Melendez, Wilfredo  
wmelende@newrochelleny.gov

# Exhibit O

On: Wednesday 3 December 2025 at 22:21:42

Dear City Manager:

This letter constitutes my administrative appeal, pursuant to Public Officers Law (POL) § 89(4) (a), of the City of New Rochelle's denial of my Freedom of Information Law (FOIL) request dated October 30, 2025, and subsequent renewed and expanded requests dated November 13, 2025, and November 21, 2025. For the reasons set forth below, the City's withholding and redaction of the requested records are unlawful, arbitrary, and capricious. I demand the immediate production of the unredacted original records, along with a detailed justification for any prior withholdings or redactions. **\*\*Background and Procedural History\*\***

On October 29, 2025, bids were due for Bid Number 5820, titled "Request for Master Redeveloper Proposal," for the redevelopment of a public park in New Rochelle—a project that generated significant public controversy, particularly regarding potential eminent domain implications. A single bid was submitted by The Young Companies LLC (hereinafter "The Young Companies"). On October 30, 2025, I submitted a FOIL request to the City for a complete, unredacted copy of The Young Companies' bid response (the "Proposal"), as well as any related correspondence or evaluations. I also made a parallel informal request to your office, as City Manager, to proactively release the Proposal on the City's website given the high level of public interest in this controversial matter. The City denied both requests, citing exemptions under POL § 87(2)(c) (records that "would impair present or imminent contract awards or collective bargaining agreements") and related provisions, but indicated that the Proposal would be revisited for release upon the award of the bid or termination of the RFP process.

On November 13, 2025, you publicly announced the termination of the RFP process. At that point, any exemption under POL § 87(2)(c) plainly ceased to apply, rendering the Proposal fully subject to disclosure under FOIL, subject only to the narrow exemptions enumerated in POL § 87(2). I immediately renewed my FOIL request for the unredacted Proposal, emphasizing that no pending procurement existed to justify withholding. Despite this, the City engaged in weeks of additional stonewalling, providing no substantive response.

On November 21, 2025, upon learning that The Young Companies had requested the return of its bid response documents, I restated my demand for the Proposal and submitted a new FOIL request for all emails, memoranda, or other records related to The Young Companies' request for return of the documents, including any communications between the City and The Young Companies regarding the Proposal's handling, redaction, or retention.

On December 1, 2025, the City produced a heavily redacted version of the Proposal. This production raises serious concerns about the integrity of the original record, including apparent alterations (e.g., discrepancies in pagination suggesting a missing page around page 24, which contains the site map, and modifications to the map's legend that conveniently obscure areas implicated in the eminent domain controversy). Moreover, your recent statements appear to confirm that the City retains an original, unredacted version of the Proposal as submitted on October 29, 2025. Despite this, the City has failed to produce it, instead deferring to post hoc redactions apparently directed by The Young Companies. **\*\*Legal Grounds for Appeal\*\***

The City's actions violate FOIL on multiple, independent grounds. FOIL mandates broad disclosure of government records to ensure public accountability, with exemptions construed narrowly in favor of disclosure (POL § 89(4)(a); see also *Matter of Data Tree, LLC v. Romaine*, 9 NY3d 454, 460 (2007)).

1. **\*\*No Basis for Post-Termination Withholding or Redaction Under POL § 87(2)(c)\*\*** Upon termination of the RFP on November 13, 2025, the Proposal lost any protection under POL § 87(2)(c). New York courts have consistently held that this exemption applies only to "present or imminent" procurement processes (*Matter of Katz v. NYC Health & Hosps. Corp.*, 94 AD3d 433, 435 (1st Dept 2012)). With no ongoing evaluation or award process, the entire Proposal became a public record subject to immediate release. The City's continued withholding thereafter was unlawful.

2. **\*\*Improper Delegation of Redaction Authority to a Private Party and Potential Destruction/Alteration of Public Records\*\*** The redactions in the produced document appear to originate not from an independent City determination, but from directions provided by The Young Companies after it requested return of the Proposal. This procedure is impermissible. Agencies may not delegate FOIL redaction decisions to record submitters (*Committee on Open Government Advisory Opinion FOIL-AO-19117* (2016); see also *Matter of Orange County Publs. v. Kiryas Joel Union Free Sch. Dist.*, 139 AD2d 294, 301 (2d Dept 1988)). Moreover, providing the Proposal (original or copy) to The Young Companies for redaction—or worse, returning the only copy—constitutes an unlawful delegation and risks violating the Arts and Cultural Affairs Law §§ 57.05 and 57.25 (prohibiting destruction or mutilation of public records) and the Local Government Records Law (requiring retention of procurement records). The apparent alterations (e.g., pagination issues around page 24 and modifications to the site map legend) further suggest potential tampering with a public record, which demands immediate investigation and disclosure of the unaltered original.

3. **\*\*No Valid Exemption for "Proprietary" or "Confidential" Information Absent Contemporaneous Designation\*\*** Any redactions purporting to protect "proprietary" or "confidential" information fail under POL § 87(2)(d), which exempts only "trade secrets" or material that "if disclosed could result in substantial injury to the competitive position" of the submitter. Courts require: (i) specific identification of exempt material at the time of submission

(e.g., by marking sections "Confidential – Trade Secret" and providing a supporting letter); (ii) independent agency evaluation; and (iii) a showing of actual competitive harm (Matter of Markowitz v. Serio, 11 NY3d 43, 51 (2008); Matter of Verizon NY, Inc. v. Mills, 60 AD3d 150, 155 (3d Dept 2009)). To my knowledge, the original Proposal submitted on October 29, 2025, contained no such contemporaneous designations. Retroactive claims by The Young Companies (or the City) cannot retroactively create an exemption. "Confidential" is not a catch-all; it applies only to statutorily protected personal privacy information under POL § 87(2)(b) (e.g., Social Security numbers), not mere commercial sensitivity. Without evidence of original markings and a detailed justification, all redactions are presumptively invalid.

4. **\*\*Failure to Provide a Detailed Explanation or Vaughn Index\*\*** The City's production lacks any index or explanation identifying the claimed exemption for each redaction, as required for meaningful appeal (POL § 89(4)(a); Matter of Data Tree, supra, at 464). This alone warrants reversal and full disclosure. A Vaughn Index is an itemized document an agency prepares in a Freedom of Information lawsuit to justify its withholding of information. It correlates each withheld document (or portion) with the specific FOIA exemption it falls under and provides a justification for the withholding, while also noting any reasonably segregable information that has been released. **\*\*Relief Requested\*\*** Within ten (10) business days, as required by POL § 89(4)(a),

I demand:

1. Production of the **\*\*original, unredacted Proposal\*\*** as submitted by The Young Companies LLC on October 29, 2025, in its entirety, without alterations.
  2. Production of all records responsive to my November 21, 2025, FOIL request, including but not limited to: - All emails, memoranda, or correspondence between the City and The Young Companies regarding the Proposal's return, redaction, or handling (November 13, 2025, to present). - Any City evaluations, notes, or internal discussions concerning the Proposal.
  3. A **\*\*detailed Vaughn-style index\*\*** specifying, for each redaction in the December 1, 2025, production: the precise location (page/section), the claimed exemption under POL § 87(2), the factual basis (including evidence of contemporaneous designation), and an explanation of why disclosure would cause substantial competitive injury or other harm.
  4. A sworn certification from the City's Records Access Officer (or you, as custodian) confirming: (i) the City retains the original unredacted Proposal; (ii) no copies were returned to or altered by The Young Companies; and (iii) the integrity of all public records related to Bid 5820 has been preserved.
  5. Disclosure of any other records relating to the RFP process, including the termination announcement and public controversy. Failure to fully comply will compel me to seek judicial review via an Article 78 proceeding in Supreme Court, Westchester County, where I will request the full relief above, plus reasonable attorney's fees and costs under POL § 89(4)(c) (as the denial lacks a "reasonable basis in law"). The public has a right to scrutinize this controversial project, and the City's actions undermine FOIL's core purpose of government transparency. I am available to discuss this appeal and encourage prompt resolution. Please contact me.
- Sincerely,

Robert Cox +353 (89) 972 0669 (If you are not in Europe, look me up in WhatsApp) TALK OF THE SOUND Publisher and Managing Editor Talk of the Sound Member, New York Press Club  
Web Site: [www.talkofthesound.com](http://www.talkofthesound.com) X: @talkofthesound Facebook Page: [facebook.com/talkofthesound](https://facebook.com/talkofthesound) instagram: @talkofthesound Vimeo: [vimeo.com/robertcox](https://vimeo.com/robertcox)  
YouTube: [youtube.com/c/talkofthesound](https://youtube.com/c/talkofthesound) LinkIn: [linkin.bio/talkofthesound](https://linkin.bio/talkofthesound)

----- Original Message -----

On Tuesday, 12/02/25 at 16:13 Melendez, Wilfredo <[wmelende@newrochelleny.gov](mailto:wmelende@newrochelleny.gov)> wrote:

Mr. Cox,

To clarify the process, the City worked with the proposer to identify the portions they asserted to be trade secrets or proprietary commercial information, which are exempt from disclosure under FOIL. The City then reviewed those requested redactions and made the final determination as to what should be withheld. The City has maintained a copy of the original, unredacted proposal in its files in compliance with all public-record obligations and procurement-retention requirements. At no point was the City's only copy of the proposal provided to the proposer or replaced by another version. The redacted version you received reflects the City's FOIL determination based on the exemptions asserted and the City's review of them. To the extent you disagree with any of the redactions, you may pursue a FOIL appeal as you indicated you intend to do, and the appeal officer will review.

Sincerely,

**Wilfredo Melendez, P.E.**

City Manager

City of New Rochelle

515 North Avenue

New Rochelle, NY 10801

(914) 654-2145 Office

[wmelende@newrochelleny.gov](mailto:wmelende@newrochelleny.gov)

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**From:** Robert Cox <[robertcox@talkofthesound.com](mailto:robertcox@talkofthesound.com)>  
**Sent:** Tuesday, December 2, 2025 11:02 AM  
**To:** Melendez, Wilfredo <[wmelende@newrochelleny.gov](mailto:wmelende@newrochelleny.gov)>  
**Subject:** Re: RE: RE: RE: Statement on flowers park

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Will,

I am familiar with the subject matter and I do not understand this statement (or your previous statement). You did not clarify your previous statement. It would be helpful if you would clarify both statements.

Regardless, before I include this statement in an article, I want to make sure I represent the City's position accurately and in a way that readers can easily understand. The current statement contains several sentence fragments and missing words, which will confuse the public just as it has me.

Would it be possible for you to provide a clearer, more complete version (preferably in full sentences) that I can quote directly?

Thank you

Robert Cox

PS, on a personal note, I find it sad to think it was not that long ago that I could just pick up the phone and speak with Chuck (and briefly Kathleen). It's too bad that you have chosen a different path as my preference is always to achieve clarity for my readers. You have made that extremely difficult (impossible really). I think you should care about

helping me understand you as I have more readers in 5 minutes than you can reach in a month. That said, I have been doing this for a long time. People like you come and go. I remain. If you change your mind my mobile phone is in every email signature

Robert Cox

+353 (89) 972 0669

(If you are not in Europe, look me up in WhatsApp)

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## News Tips

I welcome tips from readers. That said, I get a lot of tips, sometimes about information I already have and sometimes about information I cannot independently verify. If you submit a news tip and want a follow up you will need to either provide a way for me to reply to you or you will need to follow up directly with me using any of the contact information above or you can reach me via WhatsApp +353 (89) 972 0669. Other Alternatives are to DM my @X account or leave a message at Google Voice at (914) 500-8386.

----- Original Message -----

On Tuesday, 12/02/25 at 15:37 Melendez, Wilfredo <[wmelende@newrochelleny.gov](mailto:wmelende@newrochelleny.gov)> wrote:

The proposal was received as per RFP solicitation. Hard copies were distributed to internal technical staff to begin their review. The RFP was then withdrawn. Developer requested proposal be returned. Developer was informed of FOIL and exemptions did not apply, however can redacted information not relevant to substance of project or propriety information, subject to review. Redactions reviewed by City. Original then returned. FOIL provided. Not manipulated in any way. RFP scope requirements versus proposal should be focus.

Thanks Will

---

**From:** Robert Cox <[robertcox@talkofthesound.com](mailto:robertcox@talkofthesound.com)>

**Sent:** Monday, December 1, 2025 11:50 AM  
**To:** Melendez, Wilfredo <[wmelende@newrochelleny.gov](mailto:wmelende@newrochelleny.gov)>  
**Cc:** Jones, Kim <[kjones@newrochelleny.gov](mailto:kjones@newrochelleny.gov)>  
**Subject:** Re: RE: RE: Statement on flowers park

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I received a document in reply to my FOIL on Flowers Park RFP.

My questions below remain so please address them.

I want to explain to readers what exactly they are looking at as my understanding is that the city gave these docs to bob young and his representatives, then they made the redactions and submitted the document I received to the city and the clerk sent it to me.

So this raises a number of questions I'm hoping you can answer. The biggest one is chain of custody if you gave Bob Young the original bid document and then he substituted it for with some other document. How would you know that? Also how would you know that the reductions that were made by Bob Young and his people are allowed under the law. If they have the original, then the city has no way to compare and evaluate what they got back there's quite a few reductions. I would certainly plan on appealing each of them, so I'm gonna win an explanation since one was not provided as to why each section was redacted which I'm entitled to under an appeal, but I'm not really clear how you would know why something was redacted if you didn't do the redacting and all you have now is the redacted version of the original from Bob Young. All of this is probably a reason why to my understanding what was done here is in violation of New York State freedom of information law and the public records requirements under the state of New York. I just don't think you can give the originals of a document to an outside party because you don't know if the reductions are legitimate and be you don't know if what they gave you back is actually the document that they submitted on October 29. I feel like I need to explain to my readers that they can't really trust this document for the reasons above, and so there should be an effort to continue to continue to press for the proper handling of this document if that's even possible now if you've given away the original and then it's changed or altered. There'd be no way to know that so what assurance is can I have the public have that what I

received today is not been manipulated along these lines or others. This is dictated not read so please excuse the typos.

Bob Cox

----- Original Message -----

On Tuesday, 11/25/25 at 13:50 Robert Cox <[robertcox@talkofthesound.com](mailto:robertcox@talkofthesound.com)> wrote:

Are you telling me you returned the bid proposal documents?

Are you telling me you are asking the developer to redact the documents and return redacted documents to you so you can then release them?

If so, what is the timeline on this?

Bob Cox

----- Original Message -----

On Tuesday, 11/25/25 at 13:23 Melendez, Wilfredo <[wmelende@newrochelleny.gov](mailto:wmelende@newrochelleny.gov)> wrote:

Mr. Cox,

Proposals were requested to be returned by the requestor. They have been asked to redact items at the request of the FOIL. We are waiting on the redacted version.

Thanks much

Great Thanksgiving!

---

**From:** Robert Cox <[robertcox@talkofthesound.com](mailto:robertcox@talkofthesound.com)>

**Sent:** Tuesday, November 25, 2025 3:28 AM

**To:** Melendez, Wilfredo <[wmelende@newrochelleny.gov](mailto:wmelende@newrochelleny.gov)>

**Cc:** Jones, Kim <[kjones@newrochelleny.gov](mailto:kjones@newrochelleny.gov)>

**Subject:** Re: RE: Statement on flowers park

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City Manager Melendez

I would greatly prefer to just get the records without having to make a public issue of your not producing the records despite your past statements to me personally but also your past public statements at city council meetings where you repeatedly used the word "transparency".

Although I was prepared to run a story on the stonewalling on Friday I decided to give it until end of day on Monday.

You have offered no explanation for the delay so I am left to conclude you do not intend to produce the records I seek. If that is not the case I would appreciate your telling me that, giving a detailed explanation of the delay and a date certain when you will provide me the records (or publish them on the city website where I can download them).

For my part, I think you are getting bad advice from anyone telling you it's a good idea to obstruct or slow walk my request.

Thanks

Robert Cox

+353 (89) 972 0669

(If you are not in Europe, look me up in WhatsApp)

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----- Original Message -----

On Thursday, 11/20/25 at 17:26 Melendez, Wilfredo  
<[wmelende@newrochelleny.gov](mailto:wmelende@newrochelleny.gov)> wrote:

Foil response forth coming.

---

**From:** Robert Cox <[robertcox@talkofthesound.com](mailto:robertcox@talkofthesound.com)>  
**Sent:** Thursday, November 20, 2025 4:40:09 AM  
**To:** Melendez, Wilfredo <[wmelende@newrochelleny.gov](mailto:wmelende@newrochelleny.gov)>; Jones, Kim <[kjones@newrochelleny.gov](mailto:kjones@newrochelleny.gov)>  
**Subject:** Re: RE: Statement on flowers park

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Will

I have been under the impression that you intended to make the bid proposal documents available to me (or otherwise make them public so I could download them) based on my initial request after

the RFP deadline on 10/29. I also made a FOIL request through the Clerk. And when asked to re-submit a FOIL request after you pulled the RFP I did so despite my belief your initial response obviated the need to do so. I still have no indication that there is some good reason for not providing the bid proposal documents so am left to conclude that despite your past statements to me and your public statements about "transparency" and two FOIL requests, you do not want the public to see the bid proposal documents.

Under POL, which you previously cited, there is no longer a basis to withhold bid documents for an RFP that is closed or awarded.

I would prefer to just get the records and publish them but in the event I do not have them by noon your time (my end of day) I will publish a story about your not producing the records despite your past statements to me, your public statements and your obligations under FOIL. Of course, I will continue to expect the records.

Thanks

Robert Cox

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----- Original Message -----

On Tuesday, 11/18/25 at 13:19 Robert Cox  
<[robertcox@talkofthesound.com](mailto:robertcox@talkofthesound.com)> wrote:

I return home tomorrow and was hoping to write up a story based on the bid documents.

Can you please send them no later than tomorrow morning your time?

Thank you

Bob Cox

----- Original Message -----

On Friday, 11/14/25 at 17:47 Robert Cox  
<[robertcox@talkofthesound.com](mailto:robertcox@talkofthesound.com)> wrote:

Hi

Hate to be a nudge but I am traveling next week and would like to post the Flowers Park bid docs today.

Can I get them?

Bob Cox

----- Original Message -----

On Thursday, 11/13/25 at 21:33 Robert Cox  
<[robertcox@talkofthesound.com](mailto:robertcox@talkofthesound.com)> wrote:

Got it. Thanks.

For good orders sake, can you send along the bid proposal (redacted for confidential/proprietary as appropriate),

Bob Cox

----- Original Message -----

On Thursday, 11/13/25 at 21:22 Melendez, Wilfredo  
<[wmelende@newrochelleny.gov](mailto:wmelende@newrochelleny.gov)> wrote:

Yes. I informed council early this morning on my intentions. Posting a statement now.

---

**From:** Robert Cox <[robertcox@talkofthesound.com](mailto:robertcox@talkofthesound.com)>  
**Sent:** Thursday, November 13, 2025 3:46 PM  
**To:** Melendez, Wilfredo <[wmelende@newrochelleny.gov](mailto:wmelende@newrochelleny.gov)>  
**Subject:** Statement on flowers park

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I saw Matt's statement and published it

Now I hear you have a statement

Can I get a copy?

Bob Cox