

SUPREME COURT OF THE STATE OF NEW YORK**COUNTY OF WESTCHESTER****ROBERT COX,**

Petitioner,

-against-

CITY OF NEW ROCHELLE, WILFREDO MELENDEZ, in his official capacity
asCity Manager and Records Appeals Officer, and CITY CLERK KIM JONES, in
her official capacity as Records Access Officer,

Respondents.

VERIFIED PETITION**CPLR ARTICLE 78****PRELIMINARY STATEMENT**

This is a special proceeding pursuant to Article 78 of the New York Civil Practice Law and Rules seeking judicial review of twenty-four final administrative determinations issued by Respondents under the New York Freedom of Information Law (“FOIL”), Public Officers Law Article 6.

Although this proceeding arises from twenty-four separate FOIL requests, Petitioner does not challenge twenty-four unrelated administrative determinations. Rather, this proceeding challenges a single recurring administrative practice that Respondents applied across twenty-four targeted requests for identifiable public records.

Unlike a typical FOIL proceeding involving a single records request, the requests at issue sought discrete, identifiable public records concerning specific municipal projects, named individuals, public procurements, contracts, vendors, public events, defined categories of records, or discrete time periods. They were prepared in connection with Petitioner’s investigative reporting as Publisher and Managing Editor of Talk of the Sound.

Many of Petitioner’s original requests, submitted during 2024 and 2025, never reached meaningful final administrative determinations suitable for judicial review. They became mired in prolonged administrative exchanges, repeated extensions, requests that Petitioner narrow otherwise proper requests, claims that extraordinarily large numbers of records required review, partial responses, or complete administrative silence.

In December 2025, Petitioner commenced a separate Article 78 proceeding challenging Respondents’ handling of another FOIL request. Following commencement of that proceeding, and after the City implemented its NextRequest electronic FOIL management system, Respondents’ handling of Petitioner’s newer FOIL requests

changed materially. Newer requests increasingly received timely acknowledgements, determinations, and appeal decisions.

Recognizing that many earlier requests remained trapped in incomplete administrative histories ill-suited for judicial review, Petitioner elected in May 2026 to resubmit twenty-four unresolved requests through the City's NextRequest system. Those resubmissions were derived from the original requests but the majority were not identical. They were accompanied by summaries explaining the procedural history of each request.

Petitioner's objective was to obtain definitive agency determinations on requests that previously had failed to reach meaningful administrative conclusions, thereby creating complete and uniform administrative records suitable for judicial review under Article 78.

Respondents were fully aware of Petitioner's purpose. Several of Respondents' determinations expressly criticized Petitioner for creating a record suitable for judicial review. That criticism is misplaced. Judicial review is the remedy expressly provided by the Freedom of Information Law following a final agency determination. Petitioner's decision to obtain complete administrative determinations before seeking judicial review reflects respect for the statutory process, not an abuse of it.

Having finally issued definitive determinations in response to Petitioner's May 2026 resubmissions, Respondents have created a record that permits this Court, for the first time, to review the legality of their actions on the merits.

THE PARTIES

1. Petitioner Robert Cox ("Petitioner") is an individual residing in Dublin, Ireland. Petitioner is a dual citizen of the United States and Ireland and is the Publisher and Managing Editor of Talk of the Sound, an online news publication covering local government and public affairs in Westchester County, New York. Petitioner is also the publisher of Words in Edgewise, a news analysis and opinion newsletter.

2. Petitioner has reported on the City of New Rochelle and other governmental entities for nearly twenty years and regularly submits requests pursuant to the New York Freedom of Information Law ("FOIL"), Public Officers Law Article 6, in connection with investigative reporting on matters of public concern.

3. Respondent City of New Rochelle ("City") is a municipal corporation organized under the laws of the State of New York and is subject to the Freedom of Information Law.

4. Respondent Wilfredo Melendez is the City Manager of the City of New Rochelle and, upon information and belief, serves as the head of the agency for purposes of determining administrative appeals under the Freedom of Information Law pursuant to Public Officers Law § 89(4)(a). He is sued solely in his official capacity.

5. Respondent Kim Jones is the City Clerk and Records Access Officer for the City of New Rochelle. She is responsible for receiving and processing requests made pursuant to the Freedom of Information Law. She is sued solely in her official capacity.

6. Although many of the original FOIL requests that give rise to this proceeding were processed with the involvement of Corporation Counsel Dawn Warren, Petitioner directed the administrative appeals that form the basis of this proceeding to Respondent Melendez because Petitioner asserted that Ms. Warren had a conflict of interest arising from her participation as a plaintiff in separate federal litigation against Petitioner. The final administrative determinations challenged in this proceeding were issued by Respondent Melendez.

JURISDICTION AND VENUE

7. This is a special proceeding brought pursuant to Article 78 of the Civil Practice Law and Rules seeking judicial review of final administrative determinations issued under the New York Freedom of Information Law ("FOIL"), Public Officers Law Article 6.

8. This Court has jurisdiction pursuant to Article 78 of the Civil Practice Law and Rules.

9. Venue is proper in Westchester County pursuant to CPLR § 506(b) because Respondents made the determinations challenged in this proceeding in Westchester County, the records sought are maintained by Respondents in Westchester County, and Respondents maintain their principal offices there.

10. Petitioner has exhausted all required administrative remedies with respect to each of the twenty-four FOIL requests that are the subject of this proceeding. For each request, Petitioner submitted a FOIL request, received an initial determination, pursued an administrative appeal, and received a final administrative determination from Respondent Melendez denying the appeal.

11. Copies of the twenty-four FOIL requests, the initial determinations, the administrative appeals, and the final administrative determinations are annexed as Exhibits D and E.

FACTUAL BACKGROUND

A Common Administrative Practice Applied to Twenty-Four Targeted FOIL Requests

12. Petitioner has reported on the City of New Rochelle and other public bodies for nearly twenty years. Throughout that period, Petitioner has regularly submitted requests pursuant to the Freedom of Information Law in connection with investigative reporting on matters of significant public concern.

13. In February 2024, Petitioner filed an ethics complaint against Mayor Yadira Ramos-Herbert. In the weeks that followed, events involving the City's leadership and municipal governance prompted Petitioner to undertake substantially expanded investigative reporting concerning the City of New Rochelle.

14. In March 2024, Petitioner contacted the Westchester County District Attorney's Office to express concerns arising from those events and from his investigative reporting. Those communications marked the beginning of Petitioner's

ongoing communications with the District Attorney's Office concerning matters involving the governance of the City of New Rochelle.

15. Petitioner's reporting ultimately included, but was not limited to, a thirty-six-part investigative series entitled The New Rochelle Thimblorig, examining matters involving municipal procurement, public contracting, ethics, municipal administration, and the conduct of senior public officials.

16. In June 2025, Chief Assistant District Attorney George Hlapatsos confirmed in writing that the Westchester County District Attorney's Office was conducting an ongoing criminal investigation concerning matters that overlapped with Petitioner's reporting. The correspondence, copied to Assistant District Attorney Sheila Horgan and Investigator Jed Salter, is annexed as Exhibit A-4.

17. Petitioner does not rely upon the existence of that criminal investigation as a basis for relief in this proceeding. Rather, it provides context demonstrating that Petitioner's reporting concerned matters of recognized public importance and that the FOIL requests at issue were submitted as part of specific investigative reporting projects rather than as generalized or speculative inquiries.

18. Petitioner's FOIL requests were prepared in connection with those investigative reporting projects. They sought identifiable public records relating to particular municipal actions, named individuals, public procurements, contracts, vendors, public events, defined categories of records, and discrete periods of time. They were not broad or exploratory efforts to determine whether information might exist. Rather, they sought known categories of identifiable public records concerning identified subjects and were narrowly tailored to obtain records relevant to particular reporting projects.

19. Beginning in approximately March 2024, Petitioner observed a material change in Respondents' administration of the Freedom of Information Law. One of the earliest examples arose in connection with FOIL requests relating to former Human Resources Director Robert Yamuder. During that exchange, Petitioner expressly offered to narrow the request in an effort to facilitate production of records. Despite Petitioner's willingness to accommodate the City's stated concerns, the administrative process nevertheless stalled. Petitioner regarded that exchange as the beginning of a broader administrative pattern that subsequently appeared in numerous unrelated FOIL requests. The Yamuder correspondence is annexed as Exhibit A-1.

20. During 2024 and continuing into 2025, Petitioner's experience with Respondents' administration of the Freedom of Information Law became increasingly characterized by prolonged delay, repeated requests for additional time, assertions that extraordinarily large numbers of responsive records required review, requests that Petitioner narrow otherwise proper requests, partial productions that Petitioner believed incomplete, or complete administrative silence.

21. On December 2, 2024, attorneys representing Corporation Counsel Dawn Warren and Development Commissioner Adam Salgado, acting in their personal capacities, served Petitioner with a written demand for retraction and threatened

defamation litigation arising from Petitioner's reporting. That correspondence is annexed as Exhibit A-2.

22. On December 10, 2024, the New Rochelle City Council considered and adopted Resolution No. 2024-204, prepared by Corporation Counsel Dawn Warren and presented through City Manager Wilfredo Melendez, authorizing outside legal counsel to investigate and, if warranted, pursue defamation claims by Corporation Counsel Dawn Warren and Development Commissioner Adam Salgado against Petitioner and his publications, Talk of the Sound and Words in Edgewise. During the City Council's public deliberations, members of the City Council questioned the financial exposure to taxpayers, the precedent established by publicly funding private litigation by City employees, and whether comparable action had been taken by other municipalities. Before adoption, the proposal was amended to provide that the City could recover up to one hundred percent of its legal fees from any award or settlement obtained in the litigation. The proposal was thereafter adopted by a vote of 5-2. The memorandum, resolution, City Council minutes, and related materials are annexed collectively as Exhibit A-3.

23. Following the December 2024 threat of litigation and the City Council's authorization of public funding for litigation specifically directed against Petitioner and his publications, Petitioner asserted that Corporation Counsel Dawn Warren had a conflict of interest in administering or reviewing FOIL requests relating to matters connected with Petitioner's reporting. Beginning in December 2024, Petitioner therefore directed administrative FOIL appeals to the head of the agency rather than to Corporation Counsel.

24. On August 4, 2025, Ms. Warren and Mr. Salgado commenced their defamation action against Petitioner in the United States District Court for the Southern District of New York (Case No. 7:25-cv-06384-JGLC). The complaint, annexed as Exhibit A-5, confirmed the conflict of interest previously asserted by Petitioner.

25. Although the subject matter of Petitioner's requests varied considerably, the administrative treatment they received became strikingly similar. Different requests concerning unrelated topics were repeatedly handled through substantially the same administrative practices despite seeking discrete, identifiable public records.

26. The twenty-four requests that are the subject of this proceeding concern a wide variety of municipal matters, including public procurements, contracts, public expenditures, named City officials, specific vendors, publicly funded events, municipal programs, communications regarding identified subjects, and electronic records maintained within the City's databases. The requests share no common substantive subject matter. What they share is the common administrative practice applied in Respondents' handling of them.

27. By late 2025, many of Petitioner's earlier FOIL requests had never progressed to meaningful final administrative determinations suitable for judicial review. Some remained unresolved following repeated extensions. Others received no final determination after administrative appeals. Others resulted in incomplete productions or other responses that failed to conclude the administrative process. As a result, the

administrative histories of those requests had become inconsistent, incomplete, and ill-suited for judicial review.

28. In December 2025, Petitioner commenced a separate Article 78 proceeding challenging Respondents' handling of another FOIL request. That proceeding remains pending before this Court.

29. Following commencement of that proceeding, and after Respondents implemented the City's NextRequest electronic FOIL management system, Petitioner's newer FOIL requests increasingly received timely acknowledgements, determinations, and appeal decisions. The prolonged administrative delays, repeated requests for additional time, and extended periods during which many earlier requests failed to reach final administrative determinations largely ceased. As a result, the administrative process became substantially more complete and predictable than it had been during the period giving rise to the requests at issue in this proceeding.

30. Observing that change, Petitioner concluded that the unresolved earlier requests should likewise proceed through a complete administrative process. Accordingly, during May 2026, Petitioner resubmitted twenty-four unresolved FOIL requests through the City's NextRequest system. Each resubmission included a concise summary of the procedural history of the original request so that Respondents would understand precisely why the request had been resubmitted.

31. Although Respondents later characterized the May 2026 requests as duplicative of earlier requests, many of the requests were not materially identical. Some sought records over expanded time periods extending through May 2026. Others sought categories of records that necessarily accumulated after the original requests were filed, including emails, communications, financial records, contracts, invoices, permits, calendars, procurement records, and other records generated during the ordinary course of municipal business. Still others differed in subject matter or scope. A request-by-request comparison is attached as Exhibit C.

32. Petitioner's purpose was neither concealed nor improper. Petitioner sought definitive agency determinations concerning requests that previously had failed to reach meaningful administrative conclusions, thereby creating complete and uniform administrative records suitable for judicial review under Article 78 if Respondents again denied access to the requested records.

ILLUSTRATIVE EXAMPLES OF THE ADMINISTRATIVE PRACTICE CHALLENGED

33. Although the twenty-four FOIL requests concern different municipal subjects, several illustrate the recurring administrative practices challenged in this proceeding. These examples are representative rather than exhaustive. They were selected because, taken together, they illustrate every major recurring defect in Respondents' administration of FOIL: constructive denial, repeated delay, incomplete production, unanswered appeals, shifting and unexplained burden estimates, procedural default created by the agency's own inaction, unaddressed conflict-of-interest objections, and the ultimate refusal to decide requests on the merits. Together they demonstrate that

Respondents repeatedly declined to resolve requests under the Freedom of Information Law and instead relied upon delay, incomplete administrative processing, and procedural defenses that frequently arose only after Respondents themselves failed to comply with the statute.

34. FOIL Request No. 26-725, concerning records relating to Generations Church, illustrates several recurring features of Respondents' administration of FOIL. After the original request was submitted, Respondents failed to produce records within the statutory period, resulting in a constructive denial. During the ensuing administrative proceedings, Corporation Counsel Dawn Warren first asserted that approximately 10,000 responsive records required review and requested an additional ninety days, only to deny the appeal two days later as overbroad and unduly burdensome while asserting that the number of responsive records had grown to nearly 11,000. Petitioner requested an explanation of the City's search methodology and the basis for those dramatically different estimates but received none. When Petitioner later resubmitted the request through the City's NextRequest system, Respondents did not explain the shifting estimates, did not describe their search methodology, and did not determine whether any of the requested records were subject to disclosure. The final determination rested solely on the claim that the request was an impermissible attempt to revive an earlier limitations period—leaving the burden-inflation and search-methodology issues permanently unaddressed.

35. FOIL Request No. 26-726, concerning the City's Jazz Under the Stars concert series, presents a different but equally significant pattern. Respondents produced records relating to five of the six concerts identified in the request but never produced invoices, payment records, receipts, contract exhibits, or other financial records relating to the sixth concert. Although the request was amended several times and Respondents acknowledged the final amendment, they neither completed production nor issued a final determination regarding the outstanding records. Following Petitioner's May 2026 resubmission, Respondents asserted that their earlier silence itself constituted a constructive denial that triggered the limitations period for judicial review. Incomplete production followed by administrative abandonment is not a completed FOIL determination. Respondents cannot transform their own failure to finish the administrative process into a procedural bar against later review.

36. FOIL Request No. 26-727, seeking records concerning the former College of New Rochelle campus, similarly demonstrates Respondents' reliance upon prolonged administrative inaction. After acknowledging the request, Respondents requested a one-month extension on the ground that more than 2,000 responsive emails had been identified. Petitioner agreed to the extension. Thereafter, however, Respondents produced no records, issued no further extensions, and failed to determine Petitioner's subsequent administrative appeal despite repeated requests that the head of the agency act. When Petitioner later sought a definitive administrative determination through the NextRequest system, Respondents again declined to consider the request on the merits. They argued that the statute of limitations had expired because the City's own failure to decide the original appeal constituted a final agency determination. Whatever the effect of that earlier silence on the time to seek judicial review of the original request, it did not authorize Respondents—after accepting the May 2026 submission as a new FOIL

request, assigning it a new number, and processing it through NextRequest—to refuse to decide the new request on the merits.

37. FOIL Request No. 26-729, concerning records relating to Kingdom Community Consultants LLC and affiliated organizations, further illustrates the challenged administrative practice. Respondents neither produced records nor responded to Petitioner's constructive denial appeal. Instead, after the request was resubmitted through NextRequest, Respondents argued that their own failure to decide the original appeal caused the matter to become time-barred under CPLR 217. Petitioner's administrative appeal also raised conflict-of-interest objections concerning both Corporation Counsel Dawn Warren, who was then a plaintiff in separate federal litigation against Petitioner, and Development Commissioner Adam Salgado, whose department maintained many of the requested records and who likewise was a plaintiff in that litigation. Respondents' final determination did not address the conflict-of-interest objections at all. It relied exclusively on the asserted expiration of the Article 78 limitations period, leaving the conflict allegations—raised against both the Corporation Counsel and the Development Commissioner—entirely unanswered.

38. FOIL Request No. 26-730, concerning records relating to the resignation of Judge Matthew J. Costa and the appointment of Judge Michelle Bernstein, demonstrates perhaps most clearly why Petitioner's May 2026 resubmissions were necessary. Respondents acknowledged the original request but thereafter produced no records, requested no extension, and issued no determination. Meanwhile, a parallel FOIL request submitted to the New York State Office of Court Administration resulted in that agency determining that many responsive records were, in fact, records of the City of New Rochelle rather than the Unified Court System. Despite that development, Respondents maintained that Petitioner's request had become time-barred because no administrative appeal had been filed following the City's own prolonged silence. Thus, even after another public agency effectively confirmed that many responsive records belonged to the City, Respondents still refused to determine whether those records should be disclosed. Outside evidence identifying the City as the custodian produced no merits determination—only a continued reliance on procedural default.

39. These examples are representative of the twenty-four requests before the Court. The administrative records for the twenty-four requests are annexed as Exhibits D and E and identified in Exhibit B. Exhibit D contains the longer illustrative histories for five representative requests (FOIL Nos. 26-725 through 26-730), including the pre-2026 email correspondence. Exhibit E contains the core 2026 administrative records—FOIL request, initial determination, administrative appeal, and final determination—for the remaining nineteen requests. Although the subject matter of the requests varied considerably, the administrative practices employed by Respondents were strikingly similar. Requests that stalled through prolonged delay, incomplete production, unanswered appeals, constructive denials, or administrative silence were ultimately met not with substantive determinations under the Freedom of Information Law, but with the uniform contention that Petitioner's May 2026 resubmissions constituted impermissible attempts to revive expired Article 78 limitations periods. It is that recurring administrative practice—not merely the outcome of any single FOIL request—that Petitioner challenges in this proceeding.

40. Respondents were fully aware of Petitioner's purpose. In several determinations challenged in this proceeding, Respondents expressly asserted that Petitioner was attempting to create a basis for judicial review by resubmitting the requests. Petitioner does not dispute that characterization. Judicial review is the remedy expressly provided by the Freedom of Information Law following a final agency determination. Petitioner's objective was to obtain such determinations so that the legality of Respondents' actions could be reviewed by this Court on a complete administrative record rather than through incomplete administrative histories.

THE MAY 2026 REQUESTS AND ADMINISTRATIVE DETERMINATIONS

41. On May 4, 2026, Petitioner submitted twenty-four separate FOIL requests through the City of New Rochelle's NextRequest electronic records management system. Each request was assigned its own FOIL request number and was acknowledged by the NextRequest system on the same day as having been received for processing.

42. Each May 4, 2026 request was a resubmission of an earlier unresolved FOIL request. Each resubmission included a concise summary of the procedural history of the original request explaining why Petitioner sought a new administrative determination.

43. On May 5, 2026, Respondents issued separate determinations denying each of the twenty-four requests. Although the requests concerned different municipal subjects, each was processed individually through the NextRequest system and received its own determination. The original requests had followed differing procedural paths, including partial productions, repeated extensions, unresolved appeals, and administrative silence.

44. Also on May 5, 2026, Petitioner submitted twenty-four separate administrative appeals pursuant to Public Officers Law § 89(4)(a). Each appeal was transmitted individually, addressed only the FOIL request to which it related, and included a memorandum explaining why Petitioner believed the City's determination was contrary to the Freedom of Information Law.

45. Consistent with the position Petitioner had maintained since December 2024, each of the twenty-four appeals was addressed to Respondent Melendez as City Manager and head of the agency. In those appeals, Petitioner repeatedly objected to the participation of Corporation Counsel Dawn Warren and, where applicable, Development Commissioner Adam Salgado, asserting that each had conflicts of interest arising from threatened or pending litigation and from matters directly related to Petitioner's investigative reporting.

46. On May 20, 2026, Respondent Wilfredo Melendez issued final determinations denying each of Petitioner's twenty-four administrative appeals.

47. On May 21, 2026, Rosa Fernandes, Secretarial Assistant to Respondent Melendez, transmitted those determinations to Petitioner by a single email sent on behalf of the City Manager. Rather than responding separately to each appeal, Respondents transmitted one PDF attachment containing all twenty-four final administrative determinations.

48. Although Petitioner had submitted twenty-four separate FOIL requests, received twenty-four separate initial determinations, and filed twenty-four separate administrative appeals, Respondents elected to issue the final determinations collectively through a single transmittal. Petitioner contends that Respondents' method of disposition reflects their own treatment of the appeals as presenting a common administrative issue and is consistent with Petitioner's contention that this proceeding challenges a common administrative practice applied across twenty-four targeted FOIL requests rather than twenty-four unrelated administrative determinations.

49. The determinations issued by Respondent Melendez on May 20, 2026, and transmitted on May 21, 2026, constitute the City's final administrative determinations with respect to the twenty-four FOIL requests that are the subject of this proceeding. Petitioner has therefore exhausted all administrative remedies available under the Freedom of Information Law.

50. For the convenience of the Court, Petitioner has organized the administrative records into Exhibits D and E. Exhibit D contains the longer illustrative administrative histories for five representative requests (FOIL Nos. 26-725 through 26-730), including the pre-2026 correspondence as well as the 2026 resubmission record. Exhibit E contains the core administrative records for the remaining nineteen requests—each consisting of (a) the FOIL request; (b) the agency's initial determination; (c) Petitioner's administrative appeal; and (d) the Respondents' final administrative determination. The twenty-four FOIL requests are identified in Exhibit B.

51. Although the twenty-four requests concern different municipal subjects, the final administrative determinations repeatedly relied upon substantially similar reasoning, including assertions that requests were overbroad, unduly burdensome, insufficiently specific, sought records exempt from disclosure, or otherwise did not warrant production under the Freedom of Information Law. Petitioner contends that these determinations reflect a common administrative practice that was arbitrary, affected by errors of law, and contrary to the requirements of the Freedom of Information Law.

QUESTIONS PRESENTED

52. This proceeding presents common questions of law arising from Respondents' uniform disposition of twenty-four separate FOIL requests through substantially identical administrative determinations.

53. The principal questions presented are:

- a. Whether Respondents erred as a matter of law by refusing to consider Petitioner's May 2026 FOIL requests on their merits solely because substantially similar requests had previously been submitted, notwithstanding that the earlier requests had resulted in incomplete, inconsistent, or otherwise inadequate administrative histories.
- b. Whether Respondents erred as a matter of law by concluding that Petitioner's May 2026 FOIL requests constituted impermissible attempts to revive or extend the statute of limitations applicable to judicial review under CPLR Article 78, rather than new FOIL requests requiring new determinations under the Freedom of Information Law.

c. Whether Respondents' repeated reliance upon substantially identical legal reasoning in denying twenty-four targeted FOIL requests constituted an arbitrary and capricious administrative practice, affected by errors of law, within the meaning of CPLR 7803(3).

d. Whether Respondents failed to discharge their obligations under the Freedom of Information Law by declining to determine, on the merits, whether the requested records were subject to disclosure or exempt from disclosure under Article 6 of the Public Officers Law.

FIRST CAUSE OF ACTION

Respondents' Blanket Determinations Were Affected by Errors of Law and Were Arbitrary and Capricious (CPLR 7803(3))

54. Petitioner repeats and realleges each and every allegation contained in the preceding paragraphs as though fully set forth herein.

55. This proceeding is brought pursuant to CPLR 7803(3) on the ground that the final administrative determinations issued by Respondent Wilfredo Melendez on May 20, 2026 were affected by errors of law, were arbitrary and capricious, and were made in violation of the Freedom of Information Law.

56. Rather than determining whether each of Petitioner's May 4, 2026 FOIL requests sought records subject to disclosure under Article 6 of the Public Officers Law, Respondents applied a uniform legal conclusion that the requests were duplicative of earlier requests and therefore constituted impermissible attempts to revive or extend the statute of limitations applicable to prior FOIL determinations.

57. Respondents reached that conclusion without first determining whether the twenty-four May 4, 2026 requests were, in fact, materially identical to the earlier requests upon which Respondents relied.

58. As reflected in Exhibit C, the twenty-four requests were not materially identical. Many expressly expanded the requested time period through May 4, 2026 or another continuing period, while others sought records that did not yet exist when the original requests were filed. Others sought categories of records that necessarily accumulated after the original requests were submitted. Still others differed materially in subject matter or scope.

59. Nevertheless, Respondents applied substantially identical reasoning to each of the twenty-four requests without undertaking an individualized comparison of the records sought or determining whether the May 2026 requests encompassed records that had never previously been requested or that did not exist when the original requests were filed.

60. Respondents therefore substituted a categorical procedural rule for the individualized administrative determination required by the Freedom of Information Law.

61. By treating materially different requests as legally indistinguishable without conducting the analysis necessary to determine whether they were, in fact, duplicative,

Respondents acted arbitrarily and capriciously and committed errors of law within the meaning of CPLR 7803(3).

62. Respondents further failed to evaluate whether responsive records existed, whether those records were agency records subject to FOIL, whether any exemption under Public Officers Law § 87 applied, whether any exemption had been established by Respondents, or whether reasonably segregable non-exempt records should be disclosed.

63. Instead, Respondents relied upon a blanket legal conclusion that foreclosed substantive consideration of Petitioner's requests without undertaking the individualized review required by the Freedom of Information Law.

64. Accordingly, the final administrative determinations dated May 20, 2026 should be annulled.

SECOND CAUSE OF ACTION

Respondents Misapplied the Freedom of Information Law by Refusing to Consider Petitioner's May 2026 Requests as New FOIL Requests

65. Petitioner repeats and realleges each and every allegation contained in the preceding paragraphs as though fully set forth herein.

66. The Freedom of Information Law grants any person the right to request access to agency records, subject only to the specific exemptions set forth in Article 6 of the Public Officers Law.

67. Petitioner's twenty-four submissions on May 4, 2026 were new FOIL requests submitted through Respondents' NextRequest records management system. Each request was assigned a new FOIL number, acknowledged by Respondents as a new request, processed through the City's ordinary administrative procedures, denied through new determinations dated May 5, 2026, appealed through twenty-four separate administrative appeals, and decided through new final determinations dated May 20, 2026.

68. Having accepted and processed the submissions as new FOIL requests, Respondents nevertheless refused to evaluate them as such. Instead, Respondents concluded that Petitioner was improperly attempting to revive or extend the time within which to seek judicial review of earlier administrative determinations.

69. Neither the Freedom of Information Law nor Article 78 authorizes an agency to decline consideration of an otherwise proper FOIL request solely because a requester previously sought substantially similar records.

70. Where a requester submits a new FOIL request, the agency must determine that request in accordance with the requirements of the Freedom of Information Law by identifying responsive records, determining whether any statutory exemption applies, and disclosing all records not lawfully exempt from disclosure.

71. Respondents instead adopted a categorical rule that the existence of earlier requests relieved them of their statutory obligation to consider Petitioner's May 2026 requests on their own merits.

72. That legal conclusion is inconsistent with the Freedom of Information Law and improperly substitutes a judicial statute-of-limitations analysis for the administrative responsibilities imposed upon agencies by Article 6 of the Public Officers Law.

73. Accordingly, Respondents' final determinations were affected by errors of law and should be annulled.

THIRD CAUSE OF ACTION

Respondents Improperly Relied Upon Article 78's Statute of Limitations as a Basis for Denying New FOIL Requests

74. Petitioner repeats and realleges each and every allegation contained in the preceding paragraphs as though fully set forth herein.

75. Respondents' final determinations repeatedly asserted, in substance, that Petitioner's May 2026 FOIL requests constituted improper attempts to revive or extend the time within which to commence judicial review of earlier FOIL determinations under CPLR Article 78.

76. The statute of limitations governing proceedings under CPLR Article 78 governs the time within which judicial review may be sought in court. It does not relieve an agency of its independent statutory obligations under the Freedom of Information Law once the agency has accepted and processed a new FOIL request.

77. By treating the statute of limitations applicable to judicial proceedings as a basis for declining to determine Petitioner's May 2026 FOIL requests on their merits—after having accepted those submissions as new requests, assigned them new numbers, and processed them through NextRequest—Respondents conflated two separate legal questions: the timeliness of judicial review of earlier determinations and the agency's statutory obligation to process a new request for records.

78. Respondents thereby adopted and applied an erroneous legal standard in denying Petitioner's requests.

79. Because Respondents' determinations rested upon an incorrect interpretation of the relationship between Article 78 and the Freedom of Information Law, those determinations were affected by errors of law within the meaning of CPLR 7803(3).

80. Accordingly, the final administrative determinations dated May 20, 2026 should be annulled.

FOURTH CAUSE OF ACTION

Respondents Failed to Carry Their Burden Under the Freedom of Information Law

81. Petitioner repeats and realleges each and every allegation contained in the preceding paragraphs as though fully set forth herein.

82. The Freedom of Information Law establishes a presumption that agency records are available for public inspection and copying unless the agency demonstrates

that the requested records fall within one or more of the specific exemptions set forth in Public Officers Law § 87(2).

83. The burden of establishing the applicability of any exemption rests upon the agency.

84. In denying Petitioner's May 2026 requests, Respondents did not identify responsive records, determine whether responsive records existed, identify any exemption applicable to particular records, or establish that any exemption justified withholding responsive records.

85. Instead, Respondents relied upon a blanket procedural rationale that foreclosed any substantive consideration of whether the requested records were subject to disclosure.

86. As a result, Respondents failed to discharge the obligations imposed upon them by the Freedom of Information Law and failed to satisfy their burden of justifying the withholding of agency records.

87. Respondents' determinations were therefore affected by errors of law, were arbitrary and capricious, and should be annulled pursuant to CPLR 7803(3).

REQUEST FOR ATTORNEY'S FEES AND LITIGATION COSTS

88. Public Officers Law § 89(4)(c) authorizes an award of reasonable attorney's fees and other litigation costs incurred by a person who has substantially prevailed in a proceeding under Article 78 challenging the denial of access to agency records.

89. Petitioner has incurred, and will continue to incur, substantial litigation costs in connection with this proceeding, including filing fees, process service fees, copying and document preparation expenses, and such additional costs as may become necessary during the course of this litigation.

90. Respondents were afforded repeated opportunities to reconsider their legal position during the administrative process. Petitioner submitted twenty-four separate administrative appeals identifying what he contended were errors of law in Respondents' determinations and requesting that those determinations be reconsidered.

91. Rather than reconsidering those determinations, Respondents uniformly adhered to the same legal theory across twenty-four separate administrative appeals despite the material differences among the requests, as reflected in Exhibit C, and despite Petitioner's repeated explanation that the May 2026 submissions constituted new FOIL requests requiring new administrative determinations.

92. Should Petitioner substantially prevail in this proceeding, Petitioner respectfully requests an award of reasonable attorney's fees, to the extent authorized by law, together with recoverable litigation costs and such other relief as Public Officers Law § 89(4)(c) permits.

For all of the foregoing reasons, the final administrative determinations issued by Respondents on May 20, 2026 were affected by errors of law, were arbitrary and

capricious, and were made in violation of the Freedom of Information Law. This proceeding challenges that common administrative practice. Accordingly, those determinations should be annulled pursuant to CPLR Article 78.

WHEREFORE

Petitioner respectfully requests that this Court enter judgment in his favor and grant the following relief:

A. Annuling the twenty-four final administrative determinations issued by Respondent Wilfredo Melendez on May 20, 2026.

B. Declaring that Respondents' determinations were affected by errors of law, were arbitrary and capricious, and were made in violation of the Freedom of Information Law within the meaning of CPLR 7803(3).

C. Declaring that Respondents' practice of refusing to consider otherwise proper FOIL requests on the ground that they purportedly revive or extend the time within which judicial review of earlier requests may be sought under CPLR Article 78 is contrary to the Freedom of Information Law and that Respondents improperly applied that erroneous legal theory to Petitioner's twenty-four FOIL requests submitted on May 4, 2026.

D. Directing Respondents to disclose all records that the Court determines are subject to disclosure under the Freedom of Information Law and are not exempt from disclosure under Article 6 of the Public Officers Law.

E. Only to the extent the Court determines that further administrative proceedings are legally required, remitting any remaining matters to Respondents with directions to conduct lawful, individualized determinations consistent with the Court's Decision and Order and the requirements of the Freedom of Information Law.

F. Awarding Petitioner reasonable attorney's fees, to the extent authorized by Public Officers Law § 89(4)(c), together with recoverable litigation costs and disbursements.

G. Granting such other and further relief as the Court deems just and proper.

Dated: August 10, 2026

Dublin, Ireland

Respectfully submitted,

/s/ Robert Cox

Robert Cox

Petitioner, Pro Se

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AFFIRMATION

I, ROBERT COX, affirm this 10th day of August, 2026, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing Verified Petition is true to my own knowledge, except as to those matters stated to be alleged upon information and belief, and as to those matters I believe them to be true. I understand that this document may be filed in an action or proceeding in a court of law.

/s/ Robert Cox

Robert Cox

Petitioner, Pro Se

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(Electronically signed pursuant to CPLR 2106)