

EXHIBIT D-5

FOIL Request No. 26-730 – Resignation of Judge Matthew J. Costa and Appointment of Judge Michelle Bernstein

(Illustrative History – Complete City Silence + Parallel Agency Confirmation)

Supreme Court of the State of New York, County of Westchester
Robert Cox v. City of New Rochelle, et al.

Purpose of this Exhibit

This exhibit demonstrates the City's complete silence after acknowledging a FOIL request. An identical request was filed the same day with the Office of Court Administration (OCA). After nearly six months of delays, OCA produced only two records and withheld the rest. On appeal, OCA ruled that many of the records sought are not OCA records but records of the City of New Rochelle. That ruling confirms the City holds responsive records. The City nevertheless produced nothing. The 2026 resubmission was denied as time-barred.

Note on Document Selection

Only the core City administrative history and the critical OCA documents that establish the City as custodian are included. Intermediate OCA delay notices and journalistic articles have been omitted to keep the exhibit focused and navigable.

Chronology of Documents Included

2024–2025 Administrative History

- | | | |
|----|---------------|---|
| 1. | Dec 3, 2024 | Mayor's letter appointing Michelle Bernstein (one of two records later produced by OCA) |
| 2. | Jan 1–2, 2025 | Original FOIL to City + City Clerk acknowledgment (then complete silence) |
| 3. | Jan–Jun 2025 | Parallel OCA FOIL: acknowledgment, delays, partial production, and appeal denial |
| 4. | Jun 30, 2025 | OCA appeal denial confirming that responsive records belong to the City |

2026 Resubmission – Core Administrative Record

- | | | |
|----|---------------|--|
| 5. | May 4–5, 2026 | Resubmitted request and denial (NextRequest) |
| 6. | May 5, 2026 | Administrative appeal (raises conflict objections) |
| 7. | May 20, 2026 | Final determination by City Manager Melendez |

Item 1**December 3, 2024**

Mayor's Letter Appointing Michelle Bernstein

One of only two records later produced by OCA; resume attachment never produced

Yadira Ramos-Herbert
Mayor
Office of the Mayor
mayoroffice@newrochelleny.com
www.newrochelleny.com



City Hall
515 North Avenue
New Rochelle, NY 10801
Tel: 914.654.2150
Fax: 914.654.2357

December 3, 2024

Via Email: aminihan@nycourts.gov

Honorable Anne Minihan, JSC
Administrative Judge, Ninth District
111 Dr. Martin Luther King Jr. Blvd. - 11th Floor
White Plains, NY 10601

Dear Judge Minihan,

I am writing to formally inform you that I have appointed Michelle Bernstein to fill the judicial vacancy on the New Rochelle City Court. Ms. Bernstein's appointment will take effect on December 30, 2024.

Ms. Bernstein has served with distinction as a District Attorney, and her tenure in that role will conclude on Friday, December 27, 2024. Her extensive legal expertise, dedication to public service, and unwavering commitment to justice make her exceptionally qualified to assume this important judicial role.

I am confident that Ms. Bernstein will bring integrity, fairness, and a deep sense of responsibility to the New Rochelle City Court, continuing the tradition of excellence and impartiality that our judiciary upholds.

Please do not hesitate to reach out if you require any further information or documentation regarding this appointment.

Sincerely,

Yadira Ramos-Herbert
Mayor, City of New Rochelle

Attachment: Bernstein Resume

cc: Michelle Bernstein, Esq. (via email)
Wilfredo Melendez (City Manage; via email)

Item 2

January 1–2, 2025

Original FOIL Request to City and City Clerk Acknowledgment

City then went completely silent — no records, no extension, no determination

RE: FOIL: New Rochelle City Court Judge

From: Jones, Kim
kjones@newrochelleny.com

To: Robert Cox
robertcox@talkofthesound.com

Cc: Oliveros, Michelle
MOliveros@newrochelleny.com
Briem, Jeffrey
JBriem@newrochelleny.com

On: Thursday 2 January 2025 at 19:30:13

This will serve as a formal acknowledgment that I have received your FOIL request.

I thank you kindly in advance.

Sincerely,

From: Robert Cox <robertcox@talkofthesound.com>
Sent: Wednesday, January 1, 2025 7:29 AM
To: Jones, Kim <kjones@newrochelleny.com>
Subject: FOIL: New Rochelle City Court Judge

EXTERNAL SENDER: DO NOT CLICK links or open attachments unless you recognize the sender and know the content is safe. If unsure, contact IT for guidance.

Hi

This is a public records request.

I would like to obtain the following records:

All records related to the resignation of Judge Matthew J. Costa from the New Rochelle City Court and the filling on his vacated seat on the court including materials submitted by applicants to fill the position and any records communicating to applicants including the successful applicant (Melissa Bernstein), communications with the New Rochelle City Court and New York State Unified Court System, any records related to the swearing in of Judge Bernstein, including but not exclusively invitations, press releases, statements, photographs.

I would like the fulfillment of my request to adhere to the new standards required under recent amendments to the New York State Freedom of Information Law which were intended to bring FOIL into the digital era.

Whenever and wherever possible I would like records provided pertaining to my records request to be

converted to and delivered in standard, cross-platform, non-proprietary electronic/digital formats. For paper records that must be duplicated, I would like them duplicated by scanning not photocopying and saved in Adobe Acrobat PDF (i.e., pdf). For audio records, I would like them exported/saved into a standard audio format (i.e., .mp3). For video records, I would like them exported/saved into standard video format (i.e., .mp4). For electronic database records, I would like them converted into Microsoft Excel (i.e., .xls) I would like all communications including the delivery of documents to take place via email as much as is possible based on the nature and size of the available records. Other online digital delivery methods such as Dropbox are also acceptable.

The New York State Committee on Open Government has issued numerous advisory opinions to the effect that an agency can not require that a request be made on a prescribed form. The Freedom of Information Law, §89(3), as well as the regulations promulgated by the Committee (§1401.5), require that an agency respond to a request that reasonably describes the record sought within five business days of the receipt of a request. As such, neither the Law nor the regulations refer to, require or authorize the use of standard forms. Accordingly, it has consistently been advised that any written request that reasonably describes the records sought should suffice.

I willing to pay any necessary, required statutory costs but for any costs that exceed \$20.00 I would like prior notification of the estimated cost to comply with this records request so I do not get any big surprises. I am willing to entertain any reasonable request to tailor or narrow my request to make compliance easier. I can be charged for the time required to “prepare” records at the lowest hourly rate for the lowest-paid person capable of doing the work but I cannot be charged for “search” time or for any costs related to work done by a machine (e.g., a machine that scans and converts paper documents to PDF files, exporting a digital video file from a video surveillance system, duplicating an audio cassette recording, burning files onto a CD) or for any costs not specified under the statute.

I would like the Records Access Officer to certify that the records are genuine.

Robert Cox
Publisher and Managing Editor
Talk of the Sound
<http://www.talkofthesound.com>
Words in Edgewise
<http://www.robertcox.ie>

CONTACT INFO

Robert Cox
+353 (89) 972 0669

(If you are not in Europe, look me up in WhatsApp)
Email: robertcox@talkofthesound.com

Follow us on Twitter at www.twitter.com/talkofthesound
Like us on Facebook at facebook.com/TalkoftheSound

Register for a Basic or Premium account for Words in Edgewise at robertcox.ie

Item 3**June 2025**

OCA Partial Production and Oath of Office

OCA produced only the Mayor's letter and this Oath of Office (DOB redacted)

State of New York

County of Westchester

} ss:

I do solemnly swear (or affirm) that I will support the constitution of the United States, and the constitution of the State of New York, and that I will faithfully discharge the duties of the office of

City Judge

(Title of position)

New Rochelle

(Department)

according to the best of my ability.

Subscribed and sworn to before me this 21st

day of December, 20 27

[Signature]
(Notary Public)

STANLEY D. BERNSTEIN

NOTARY PUBLIC-STATE OF NEW YORK

No. 02BE6322565

Qualified in Westchester County

My Commission Expires April 06, 2028

[Signature]
(Signature of Appointee)

Mickelle Bernstein
(Type name of appointee)

[Redacted Address]
(Type address of appointee)



NEW YORK STATE
Unified Court System

TO THE JUDGE OR JUSTICE – PURSUANT TO §10, PUBLIC OFFICERS LAW, THIS FORM SHOULD BE USED TO FILE A COPY OF YOUR OATH OF OFFICE WITH THE OFFICE OF COURT ADMINISTRATION. COMPLETE AND MAIL TO:

New York State Unified Court System
Office of Court Administration
25 Beaver Street, 11th Floor
New York, New York 10004

STATE OF NEW YORK

COUNTY OF Westchester SS:

I Michell Bernstein
(PRINT OR TYPE YOUR NAME)

Do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of the State of New York, and that I will faithfully discharge the duties of the office of

City Judge
(TITLE OF JUDGE/JUSTICE'S POSITION)

of New Rochelle
(JURISDICTION, i.e. VILLAGE, TOWN, COUNTY etc.)

according to the best of my ability.

Michell Bernstein
(SIGNATURE OF JUDGE/JUSTICE)

Term Begins 12/30/24 Term Ends 12/31/25

I have replaced another Judge/Justice

I am filling a newly created position

Matthew Costa
(NAME OF JUDGE/JUSTICE YOU ARE REPLACING)

Subscribed and sworn to before me this 21st day of December 2024

Stanley D. Bernstein
(AUTHORIZED SIGNATURE)

STANLEY D. BERNSTEIN
NOTARY PUBLIC-STATE OF NEW YORK
No. 02BE6322565
Qualified in Westchester County
My Commission Expires April 06, 2024

Item 4

June 30, 2025

OCA Appeal Denial

Critical ruling: many of the records sought are records of the City of New Rochelle, not OCA



New York State Unified Court System

Office of Court Administration • Counsel's Office

Hon. Joseph A. Zayas
Chief Administrative Judge

Hon. Norman St. George
First Deputy Chief Administrative Judge

David Nocenti
Counsel

June 30, 2025

Robert Cox
Talk of the Sound
Emmett House, Apt. 1
Clyde Road
Dublin 4 / D04 PD65
Ireland
robertcox4@talkofthesound.com

Dear Robert Cox,

This is in response to your Freedom of Information Law ("FOIL") appeal submitted by email on June 9, 2025, concerning your January 1, 2025 request, described herein.

1. Background

On January 1, 2025 you submitted a FOIL request "[a]ll records related to the resignation of Judge Matthew J. Costa from the New Rochelle City Court and the filling of his vacated seat on the court including materials submitted by applicants to fill the position and any records communicating to applicants including the successful applicant (Melissa Bernstein), communications with the City of New Rochelle and New York State Unified Court System, any records relating to the swearing in of Judge Bernstein, including but not exclusively invitations, press releases, statements, photographs."

On June 4, 2025, the Records Access Officer ("RAO") for the Office of Court Administration ("OCA") responded to your FOIL request, providing you with Judge Bernstein's oath of office and informing you that other records are exempt from disclosure pursuant to POL § 89(7) and 87(2)(b).

By email and letter on May 1, 2025, you appealed the matter arguing that you believe the extended time it took to respond to your request was "stonewalling." You did not dispute OCA's grounds for withholding records your request has been constructively denied.

2. Determination on Appeal

In my review of the matter, I deny your appeal. The right to appeal a determination of a FOIL request is limited to challenging an agency's denial of a request or its withholding of documents (or redacting parts thereof) deemed exempt from disclosure pursuant to statute. See POL § 89(4)(a).

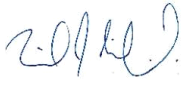
From approximately December 20, 2024 until April 14, 2025, OCA did not have a fulltime RAO due to the resignation of the prior RAO. Accordingly, OCA extended the time to respond FOIL requests and, when the current RAO started, requests were responded to in the order they were received and time/resources needed to respond. Accordingly, I find the time taken to respond to your FOIL request reasonable under the circumstances.

In any event, I have reviewed your FOIL request. The records you seek are not records of the OCA, but rather records of the judiciary or records of the City of Rochelle. Records of the judiciary are exempt from disclosure under FOIL pursuant to POL § 86(1), (3). To the extent OCA is in possession of any responsive records, I agree with the RAO's determination that such records are exempt under POL § 89(7), 87(2)(b). Additionally, such records would likely be exempt under § 87(2)(g) as non-final, intra- or inter-agency materials.

Your appeal is denied in accordance with the reasoning herein.

Very truly yours,

6/30/2025

X 

Michael Siudzinski
FOIL Appeals Officer
Signed by: Michael J. Siudzinski

cc: Committee on Open Government

Item 5**May 4–5, 2026**

2026 Resubmission – Request & Denial (NextRequest)



Request Visibility:  Unpublished

Request 26-730 Closed



76 of 83

Dates

Received

May 04, 2026 via web

Requester

 Robert Cox

 foil@talkofthesound.com

 1, Emmett House, Dublin, Co.
Dublin, D04 PD65

 0899720669

Additional information

Request

All records related to the resignation of Judge Matthew J. Costa from the New Rochelle City Court and the filling of his vacated seat, including materials submitted by applicants to fill the position, records communicating with applicants including the successful applicant Michelle Bernstein, communications with the New Rochelle City Court and New York State Unified Court System, and any records related to the swearing in of Judge Bernstein, including but not limited to invitations, press releases, statements, and photographs.

The original FOIL was filed January 1, 2025 with Kim Jones and acknowledged the same day. No records were produced, no extension was requested, and no appeal was filed. The matter went entirely silent.

Background — Parallel OCA FOIL and

This section is for Police Department information requests only. Use the calendar to pick the date of the incident. If the date and time are unknown, please provide your best estimates.

No data entered

Police Incident Time

No data entered

Police Incident Location

No data entered

Police Incident Report Number (If applicable)

No data entered

Event/CAD Number (If Applicable)

No data entered

Citation/Ticket Number (If applicable)

No data entered

Police Unit, if known

No data entered

Invoices

No invoices due

Staff assigned

Departments

No departments available

Point of contact

Peter Pellegrino

Appeal: On the same date, January 1, 2025, Cox filed an identical FOIL with the Office of Court Administration (OCA), directed to Magdalena Areizaga. OCA acknowledged receipt on January 14, 2025 and then issued four consecutive monthly delay notices — February 13, March 14, April 11, and May 9, 2025 — each promising a status update approximately one month later, with no explanation for the delays.

On June 4, 2025, after nearly six months, OCA produced only two records: a December 3, 2024 letter from Mayor Yadira Ramos-Herbert to Administrative Judge Anne Minihan of the Ninth District announcing Bernstein's appointment, and Bernstein's Oath of Office Card with only her date of birth redacted. The letter referenced an attachment ("Bernstein Resume") that was not produced.

Records related to Judge Costa's resignation were withheld under POL § 87(2)(b) (personal privacy). Applicant materials were withheld under POL § 89(7). Multiple categories of requested records were not addressed at all.

Cox filed a FOIL appeal with OCA Appeals Officer Michael Siudzinski on June 9, 2025, arguing that the six months of delays constituted stonewalling, that Costa's resignation letter had been improperly withheld in its entirety rather than partially

redacted, that the applicant materials exemption had been misapplied, that the Bernstein resume attachment to the Mayor's letter had not been produced, and that numerous categories of records remained entirely unaddressed. Cox noted that Bernstein's appointment was the subject of a criminal investigation by the Westchester County District Attorney's Office, and that Bernstein's Oath of Office had been notarized by her father Stanley Bernstein, who was himself under criminal investigation for his role in a conspiracy to oust the New Rochelle City Manager in Spring 2024.

On June 30, 2025, Siudzinski denied Cox's appeal, finding the delay reasonable on grounds that OCA lacked a full-time Records Access Officer from approximately December 20, 2024 to April 14, 2025 due to a prior RAO's resignation. Siudzinski further ruled that the records sought were not OCA records but records of the judiciary or the City of New Rochelle, and were exempt under POL §§ 86(1), (3), 89(7), 87(2)(b), and 87(2)(g). Cox challenged this ruling as legally wrong and procedurally pretextual. The OCA matter is closed at the administrative level.

The City of New Rochelle, which received the identical request at the same time as OCA, never acknowledged the request, never requested an extension, and never

produced a single record. Cox noted in his OCA appeal that the City's complete silence on this request was itself evidence of the broader pattern of obstruction coordinated by Corporation Counsel Dawn Warren.

Show less

Timeline

Documents



Request closed Anyone with access to this request

Dear Mr. Cox

This letter responds to your Freedom of Information Law ("FOIL") request.

The request is denied to the extent it seeks records previously requested, reviewed, and responded to through prior FOIL requests and related correspondence. The records presently sought substantially duplicate records previously requested from the City.

New York courts have consistently held that a requester may not revive or extend the statute of limitations applicable to a prior FOIL determination by submitting a duplicative request for the same records. As stated in FOIL Advisory

Opinion FOIL-AO-15017:

"The material sought by the petitioner in his 2003 FOIL request is identical to the material previously sought in his 2001 FOIL request... This proceeding, therefore, must also be dismissed as time-barred" (*Martin v. Travis*, Supreme Court, Franklin County, August 23, 2004).

Similarly, in *Corbin v. Ward*, 153 A.D.2d 515 (3d Dep't 1990), leave to appeal denied, 72 N.Y.2d 707 (1990), the Court held that a requester could not challenge a second denial seeking the same records on the same grounds where no material change in circumstances existed.

Accordingly, the City denies this request as duplicative of prior requests and as an impermissible attempt to extend the statute of limitations applicable to judicial review of the prior FOIL determinations.

Pursuant to Public Officers Law §89(4)(a), you may appeal this determination in writing within thirty (30) days of this response to:

Dawn M. Warren

Corporation Counsel

City of New Rochelle

515 North Avenue

New Rochelle, NY 10801

Email: dwarren@newrochelleny.gov

May 5, 2026, 9:57am by Staff



Message to requester

Requester + Staff

Dear Mr. Cox

Your FOIL request was received by the City of New Rochelle, New York.

You will be contacted regarding your request by 6/2/26

The standard turnaround time for requested records is twenty (20) business days.

Please note that FOIL applications requesting extensive information require further research by departments, and therefore may take longer to produce.

FOIL responses will be submitted electronically whenever possible. In the event that records

aren't available electronically you will be notified of any reproduction fees associated with your

request. Fees shall apply in accordance with §87(1) of the NYS Public Officers Law. Advance

payment is required before records will be released.

Thank you in advance for your cooperation.

Sincerely,

Kim Jones

Records Access Officer

City of New Rochelle, New York

May 5, 2026, 9:10am by Staff



Request opened

Anyone with access to this request

Request received via web

May 4, 2026, 4:52pm by the requester

FAQ's
Help
Privacy
Terms

City of New Rochelle Website

 **CIVICPLUS**
NextRequest

Item 6

May 5, 2026

Administrative Appeal of the 2026 Denial

Raises conflict-of-interest objections under POL §74

Subject: FOIL Appeal — Records Related to Resignation of Judge Matthew J. Costa and Appointment of Judge Michelle Bernstein — NextRequest No. 26-730

Wilfredo Melendez
City Manager
City of New Rochelle
515 North Avenue
New Rochelle, NY 10801
wmelende@newrochelleny.com

Re: Appeal of FOIL Denial — Records Related to Resignation of Judge Matthew J. Costa and Appointment of Judge Michelle Bernstein — NextRequest No. 26-730

Dear City Manager Melendez,

Pursuant to Public Officers Law §89(4)(a), I hereby appeal the denial of my Freedom of Information Law request for the following records:

All records related to the resignation of Judge Matthew J. Costa from the New Rochelle City Court and the filling of his vacated seat, including materials submitted by applicants to fill the position, records communicating with applicants including the successful applicant Michelle Bernstein, communications with the New Rochelle City Court and New York State Unified Court System, and any records related to the swearing in of Judge Bernstein, including but not limited to invitations, press releases, statements, and photographs.

This request was originally filed on 01/01/2025 and was re-filed on 05/04/2026, assigned NextRequest No. 26-730 by the City of New Rochelle. On 05/05/2026, the City closed this request with an outright denial claiming the request is duplicative of a prior request and constitutes an impermissible attempt to extend the statute of limitations for judicial review of a prior determination. A copy of the denial is attached.

The denial is without merit for the following reasons.

First, there is no final prior determination from which a statute of limitations could run. Administrative remedies on this matter were never exhausted — the City acknowledged the request but never produced records or issued a determination. No appeal was filed at the time

because the City never made a determination from which an appeal could run. The complete history of this request is as follows:

The original FOIL request was filed with Kim Jones on 01/01/2025 and acknowledged the same day. No records were produced, no extension was requested, and no appeal was filed. The matter went entirely silent.

On the same date, an identical FOIL was filed with the Office of Court Administration (OCA). After six months of delays and four consecutive monthly delay notices, OCA produced only two records on 06/04/2025: a December 3, 2024 letter from Mayor Yadira Ramos-Herbert to Administrative Judge Anne Minihan of the Ninth District announcing Bernstein's appointment, and Bernstein's Oath of Office Card with only her date of birth redacted. The referenced attachment — Bernstein's resume — was not produced. Records related to Judge Costa's resignation were withheld under POL §87(2)(b). Applicant materials were withheld under POL §89(7). Multiple categories of requested records were not addressed.

Cox filed a FOIL appeal with OCA Appeals Officer Michael Siudzinski on 06/09/2025. On 06/30/2025, Siudzinski denied the appeal, ruling in part that the records sought were not OCA records but records of the judiciary or the City of New Rochelle. That ruling confirms that the City of New Rochelle holds responsive records. Yet the City — which received the identical request on 01/01/2025 — never produced a single record, never requested an extension, and never issued a determination.

The public interest in these records is substantial. Judge Bernstein's appointment has been the subject of a criminal investigation by the Westchester County District Attorney's Office. Her Oath of Office was notarized by her father, Stanley Bernstein, who was himself under criminal investigation for his role in a conspiracy to oust the New Rochelle City Manager in Spring 2024.

The City cannot invoke a statute of limitations where it never made a determination and where OCA's own appellate ruling has confirmed that the City — not OCA — holds the responsive records.

Second, the denial, issued by Corporation Counsel Dawn Warren, directs me to submit this appeal to Corporation Counsel Dawn Warren. I am instead submitting this appeal to you as head of agency pursuant to Public Officers Law §89(4)(a), for the following reasons. Ms. Warren is the plaintiff in an active federal lawsuit against me, Robert Cox, Talk of the Sound,

and Words in Edgewise, currently pending in the United States District Court for the Southern District of New York, Case No. 25-CV-6384 (JGLC). Her co-plaintiff is Adam Salgado, Development Commissioner for the City of New Rochelle. New York State Public Officers Law §74 — the Code of Ethics — prohibits a public officer from engaging in any activity that is in substantial conflict with the proper discharge of her duties. The New York State Commission on Ethics has applied §74 directly in a FOIL appeals context. See Advisory Opinion No. 99-05. Ms. Warren's adjudication of my FOIL requests and her demand that I submit my FOIL appeals to her while she is actively pursuing me as a defendant in a lawsuit funded by the City of New Rochelle constitutes a clear conflict of interest under §74.

You are required to acknowledge this appeal upon receipt and issue a determination within 10 business days. Failure to do so constitutes a denial of this appeal.

Please ensure that a copy of this appeal and the determination that follows are forwarded to the Committee on Open Government, Department of State, One Commerce Plaza, 99 Washington Avenue, Albany, New York 12231, as required by Public Officers Law §89(4)(a).

Respectfully submitted,

/s/ Robert Cox
Publisher and Managing Editor
Talk of the Sound
robertcox@talkofthesound.com

[Skip to main content](#)

City of New Rochelle, NY



Request Visibility: Unpublished



Request 26-730



Closed



17 of 24

Dates

Received

May 04, 2026 via web

Requester



Robert Cox



foil@talkofthesound.com

1, Emmett House, Dublin, Co. Dublin,
D04 PD65

0899720669

Additional information

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[Show less](#)

Timeline

Documents



Request closed

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FOIL requests and related correspondence. The records presently sought substantially duplicate records previously requested from the City.

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Dawn M. Warren

Corporation Counsel

City of New Rochelle

515 North Avenue

New Rochelle, NY 10801

Email: dwarren@newrochelleny.gov

May 5, 2026, 9:57am by Staff



Message to requester

Requester + Staff

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FOIL responses will be submitted electronically whenever possible. In the event that records

aren't available electronically you will be notified of any reproduction fees associated with your

request. Fees shall apply in accordance with §87(1) of the NYS Public Officers Law. Advance

payment is required before records will be released.

Thank you in advance for your cooperation.

Sincerely,

Kim Jones

Records Access Officer

City of New Rochelle, New York

May 5, 2026, 9:10am by Staff

 **Request opened** Anyone with access to this request

Request received via web

May 4, 2026, 4:52pm by the requester

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NextRequest

Item 7

May 20, 2026

Final Determination by City Manager Melendez

515 North Avenue
New Rochelle, NY 10801

Wilfredo Melendez, P.E.
City Manager

wmelende@newrochelleny.gov



Tel: (914) 654-2140
Fax: (914) 654-2174

City of New Rochelle New York

May 20, 2026

VIA E-MAIL

Robert Cox
Publisher and Managing Editor
Talk of the Sound
robertcox@talkofthesound.com

Re: FOIL Appeal Response- NextRequest No. 26-730

Dear Mr. Cox:

We are in receipt of your appeal pursuant to Public Officers Law ("POL") § 89(4)(a) with respect to NextRequest No. 26-730 which is a resubmission of your January 1, 2025 Freedom of Information Law initial request for documents related to the resignation of City Judge Matthew J. Costa. Please consider this the City's determination.

According to your request, the original FOIL was constructively denied. As there was no further correspondence, the request was constructively denied twenty business days after the City's acknowledgement. POL § 89(4)(a). You failed to file an appeal within the designated time frame. While the City notes that you admit that you filed an identical request with the OCA and received the requested documents, the remainder of your appeal addressing discussions with the OCA is beyond the scope of this appeal.

As - by your own admission - Request 26-730 is a resubmission of the request that had been constructively denied in February of 2025, this request must also be denied.

This determination constitutes the final administrative decision pursuant to POL § 89(4)(a).

Sincerely,



Wilfredo Melendez, P.E.
City Manager

cc: Committee on Open Government- coog@dos.ny.gov

Kim Jones, City Clerk