

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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LANDMARK WEST! and KATE WOOD,  
individually, and on behalf of Landmark  
West! and the residents of the City of  
New York, who are concerned with open  
government and the enforcement of the rule  
of law,

*Plaintiffs,*

against -

NEW YORK CITY DEPARTMENT OF  
BUILDINGS and THE CITY OF NEW YORK,

*Defendants.*  
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: Index No. 104880/07

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**VERIFIED  
COMPLAINT**

Plaintiffs, by their attorneys, Marcus Rosenberg & Diamond LLP, as their  
complaint against defendants, upon information and belief, allege:

**As and For a First Cause of Action**

**The Parties**

1. Plaintiff Landmark West! is an award-winning non-profit grassroots  
community organization which, since 1985, has worked to protect the historic architecture and  
fabric of the Upper West Side and to improve the community for all of its residents.

2. Plaintiff Kate Wood is the Executive Director of Landmark West! and a homeowner and resident in the City and State of New York.

3. The members and staff of Landmark West! are well-respected, taxpaying and voting citizens of the United States and, for the most part, residents of the City and State of New York.

4. Neither Plaintiff Kate Wood, nor any member or employee of Landmark West!, is a member of any real or imagined terrorist organization.

5. Defendant The City of New York (the “City”) is a municipal corporation organized and existing pursuant to the laws of the State of New York, with an office in the County, City and State of New York.

6. Defendant New York City Department of Buildings (“DOB”) is the department of the City charged with the responsibility of: reviewing and approving applications for permits to construct new buildings; maintaining and providing access to the public of documents filed with DOB pursuant to the Freedom of Information Law (“FOIL”), Article 6 of the Public Officers Law, and adopting and enforcing rules with respect to FOIL.

## **Factual Basis for the Relief Sought**

### FOIL Refusal Rule

7. New York's legislature, in Pub. Off. L. § 84, has described its purpose in enacting FOIL, as follows:

The legislature hereby finds that a free society is maintained when government is responsive and responsible to the public, and when the public is aware of governmental actions. The more open a government is with its citizenry, the greater the understanding and participation of the public in government.

\* \* \*

The people's right to know the process of governmental decision-making and to review the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality.

The legislature therefore declares that government is the public's business and that the public, individually and collectively and represented by a free press, should have access to the records of government in accordance with the provisions of this article.

8. In furtherance of this purpose, § 87 of FOIL provides:

2. Each agency shall, in accordance with its published rules, make available for public inspection and copying all records, except that such agency may deny access to records or portions thereof that:

(a) are specifically exempted from disclosure by state or federal statute;

(b) if disclosed would constitute an unwarranted invasion of personal privacy under the provisions of subdivision two of section eighty-nine of this article;

(c) if disclosed would impair present or imminent contract awards or collective bargaining negotiations;

- (d) are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury in the competitive position of the subject enterprise;
- (e) are compiled for law enforcement purposes. . . .
- (f) if disclosed would endanger the life or safety of any person;
- (g) are inter-agency or intra-agency materials. . . .
- (h) are examination questions or answers which are requested prior to the final administration of such questions.
- (i) are computer access codes.
- (j) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eleven-a of the vehicle and traffic law.

9. Pursuant to § 87(1)(a) of the Public Officers Law, the City adopted Uniform Rules and Regulations for all City Agencies Pertaining to the Administration of the Freedom of Information Law, 43 RCNY § 1-01, *et seq.*, which state, in 43 RCNY § 1-01(b):

Agency personnel shall furnish to the public the information and records required to be made available by [FOIL], as well as records otherwise available by law. Any conflicts among laws governing public access to records shall be construed in favor of the widest possible availability of public records.

10. It has been the normal and continuing policy and practice of DOB to provide DOB files for examination and copying to licensed design professionals, contractors, expeditors and members of the public simply on the presentation of identification to assure their

return for refiling. In fact, the regular form response issued by DOB to FOIL requests directs the requestor to go to the DOB office where the particular records are maintained.

11. Sometime after September 11, 2001, DOB and the City adopted a rule and procedure (the "FOIL Refusal Rule") whereby certain properties, including, among others, those owned by religious institutions or related entities, were classified as "sensitive"

12. Pursuant to the FOIL Refusal Rule, FOIL requesters are advised that records relating to "sensitive" properties will not be made available without the written authorization of the owners of the properties.

13. The FOIL Refusal Rule is not among the Uniform Rules and Regulations for all City Agencies Pertaining to the Administration of the Freedom of Information Law.

14. The FOIL Refusal Rule was not:

! promulgated pursuant to 43 RCNY § 1-08;

! publicized by posting in a conspicuous location, as required  
by 43 RCNY § 1-08(a)(3), nor

! consistent with FOIL, as required by 43 RCNY § 1-08(c).

Plaintiff's November 22, 2006 Document Request

15. On November 22, 2006, a Landmark West! employee visited the Manhattan office of DOB and requested access to the file pertaining to property located at 6-10 West 70th Street, New York, New York 10023, Block 1122, Lot 37, BIN # 1028510 (the "Property"), the owner of which, Shearith Israel, had announced plans for the construction of a new building on the Property.

16. The desk attendant advised the Landmark West! employee that the records with respect to the Property were "sensitive" and that a formal written FOIL request was required in order to obtain access to the records.

#### Plaintiffs' November 28, 2006 FOIL Request

17. By letter dated November 28, 2006 (a copy of which is annexed and incorporated herein as Exhibit A), Plaintiffs filed a formal written FOIL request (the "November 28, 2006 FOIL Request"), repeating her request for copies of the records relating to the Property, and describing the prior unsuccessful attempt to obtain access.

#### The Denial of Plaintiffs' November 28, 2006 FOIL Request

18. In response, Plaintiffs received what appeared to be a form letter, dated November 30, 2006, from Angela Orridge, Records Access Officer (a copy of which is annexed and incorporated herein as Exhibit B), which stated, in relevant part:

All public records maintained by the Department of Buildings (DOB) are routinely made available for public inspection in the office/division of the New York City Department of Buildings at which said records are maintained. . . .

19. This was followed by a list of potential responses, with a space to "check off" the relevant response.

20. Among the form responses are:

! The documents you requested are available for inspection at the Municipal Library located at 31 Chambers Street, Suite 112, New York, NY 10007 (212) 788-8590.

! The information you seek is not within the jurisdiction of DOB. Please direct your request to

! A search of DOB files has revealed no such documents.

! Your request is denied under § 87(2) of the Public Officer's Law because the documents requested are

21. The November 30, 2006 letter did not "check off" any of the aforementioned paragraphs, but "checked off" a paragraph stating:

Other: You will have to submit a letter from the owner on their [sic] letterhead explaining why you are looking for records [sic] also you must give the Record Room a copy of your photo Id. The record room staff will explain the process to you.<sup>1</sup>

22. Plaintiffs also received a letter dated December 5, 2006, from DOB Record Coordinator Rashem Clark, Record Division, Legal Processing/Notification Letter (a

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<sup>1</sup> Unless otherwise indicated, all emphasis herein is added.

copy of which is annexed and incorporated herein as Exhibit C), which stated that the records were available at DOB's Manhattan office, but:

Due to the 9/11 tragedy, the records for the block and lot or address listed in your request are considered "sensitive" . . . . In order to obtain agency clearance to release these records, please forward a letter from the owner/managing agent (on record) authorizing you to have access.

23. In denying Plaintiffs' November 2006 FOIL Request, DOB did not claim that the records were exempt from disclosure pursuant to any FOIL exemption, nor did it articulate a particular and specific justification for denying access to the public records, as required by 43 RCNY 1-03(c).

#### Plaintiffs' December 12, 2006 FOIL Appeal

24. By letter dated December 12, 2006 from Plaintiffs' counsel (the "FOIL Appeal") (a copy of which is annexed and incorporated herein as Exhibit D), Plaintiffs appealed the denial of the November 28, 2006 FOIL Request to the DOB General Counsel, the "appeals officer" stated to have been so designated, pursuant to 43 RCNY § 1-06, stating, in relevant part:

Section 87(2) of the Public Officers Law, cited in the November 30, 2006 letter of Angela Orridge, Records Access Officer, states:

2. Each agency shall, in accordance with its published rules, make available for public inspection and copying all records, except that such agency may deny access to records or portions thereof that:

\* \* \*

Section 87(2) contains ten subdivisions, none of which are cited in either [the November 30 nor the December 16] letter. Nor has DOB otherwise provided an



articulation of the particularized and specific justification which is required of an agency seeking to deny access to public records.

Moreover, the requirement to obtain "a letter from the owner on their *[sic]* letterhead explaining why you are looking for records . . . " or "a letter from the owner/managing agent (on record) authorizing you to have access" is neither imposed by any statute nor applied to other properties.

The blanket suggestion that "the 9/11 tragedy" justifies this policy has no support in the statute or case law. Nor does it appear that DOB has adopted regulations defining "sensitive" properties.

Even if a Jewish synagogue is a potential target of some terrorist groups, so are many other buildings. Moreover, it is hard to imagine how it would be necessary for a terrorist to have DOB files to locate the entrances to such a building.

Nor is there any logical or legal basis for delegating DOB's determinations to the owner of the property.

Finally, in this case, the application of such a rule is absurd, in that plans already have been shown and discussed at the Landmarks Preservation Commission and, apparently, will be shown and discussed at Community Boards and at the Board of Standards and Appeals.

25. The Foil Appeal then concluded:

Obviously, Landmark West! requests immediate access to the designated files so that it may review the plans and provide comments in a timely manner.

More than this, Landmark West! requests that DOB reconsider its present policy for "sensitive" buildings and eliminate it or, at least, promulgate standards consistent with the Public Officers Law after an opportunity for public comment.

The Freedom of Information Law is one of the landmarks of open and transparent government, providing access to information necessary for citizens to effectively petition their government, one of the rights guaranteed by the First Amendment to the United States Constitution. The Freedom of Information Law also serves as a protection against abuses by government which would deprive its citizens of their rights.

To the extent that the tragic events of September 11 are cited as the basis for limiting or eliminating such rights of our citizens, then the terrorists have achieved continuing and far-reaching success.

Please consider this when reviewing this request.

The Denial of Plaintiffs' December 12, 2006 FOIL Appeal

26. Plaintiffs did not receive a response to the FOIL appeal within ten business days as required by 43 RCNY § 1-06, which states:

(d) within ten business days from the date of actual receipt of an appeal, the appeals officer shall make a written determination either affirming or reversing the denial. . . .

27. Plaintiffs' counsel then sent a letter dated January 26, 2007, to DOB's General Counsel/"appeals officer" (a copy of which is annexed hereto and incorporated herein as Exhibit E) advising her that DOB failed to respond to Plaintiffs' appeal, and that immediate access to the public records should be provided by DOB.

28. On February 5, 2007, Plaintiffs' counsel received a letter dated January 29, 2007, from DOB Deputy General Counsel (a copy of which is annexed and incorporated herein as Exhibit F), stating, in relevant part:

This responds to your letter dated January 26, 2007 wherein you referenced a letter dated December 12, 2006 in which you appeal the Department's denial of records included in a job folder for the referenced premises.

It appears that you may not have received the attached response dated January 12, 2007<sup>2</sup> where we advised that the application folder would be made available at the Borough Office, but that plans could not be released. As stated in that letter, the

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In point of fact, Plaintiffs' counsel did not receive the January 12, 2007 "response" to their appeal because it was addressed to Landmark West! Executive Director, Kate Wood, and not to counsel who appealed the denial on behalf of Plaintiffs.

plans are not released under FOIL since it has been determined that disclosure of the plans for this building, which post -9/11/01 has been designated a “sensitive building,” may endanger the life or safety of persons. However, there is a process for individuals to obtain the plans as well. You may contact Investigator Kim Rivers at the Department’s IAD office, (212) 442-2000, to obtain a requisition form for the plans. This form must be accompanied by a letter from the property owner, on the owner’s letterhead, authorizing the requester to have access to the sensitive building records. The requester must also present identification, such as a driver’s license, to obtain a copy of the plans.

29. Even had the January 12, 2007 letter (a copy of which is annexed hereto and incorporated herein as Exhibit G) been properly addressed to the party who had filed the FOIL Appeal, it would have been untimely.

30. The January 12, 2007 “response” to Plaintiffs' appeal was issued by DOB’s Records Access Officer Angela Orridge -- the same individual who denied Plaintiffs' November 11, 2006 FOIL Request -- in violation of 43 RCNY § 1-06, which states:

(a) The head or governing body of each agency shall hear appeals or shall designate a person or body to hear appeals (an “appeals officer”) from denials of requests by a records access officer. No records access officer shall also serve as an appeals officer.

#### Plaintiffs' January 9, 2007 FOIL Request

31. By letter dated January 9, 2007 (a copy of which is annexed and incorporated here as Exhibit H), Plaintiffs' counsel filed a separate FOIL request (the “January 9, 2007 FOIL Request”) seeking:

! Documents describing all properties within the City of New York, identified by street address, block and lot, and all other matters which the Department of Buildings has treated, characterized or classified or is treating, characterizing or classifying as “sensitive”;

! Documents evidencing the standards, if any, pursuant to which the “sensitive” classification was established and pursuant to which it has been applied and is being applied;

! Documents identifying the person or persons or titles of office who have made and who are making the determination as to which DOB records are “sensitive”; and

! Documents pursuant to which the procedure to treat records as “sensitive” was adopted or established and all communications with respect thereto, excepting only those which may be subject to attorney-client or other privilege or exempt from FOIL disclosure by statute and, if any such privilege or exemption which is claimed, specifically identifying the privilege or exemption claimed with respect to each such record as to which the City DOB refuses to provide access.

32. Pursuant to 43 RCNY § 1-05, the City should have acknowledged receipt of the January 9, 2007 FOIL Request within 5 business days.

33. Instead, on February 5, 2007, Plaintiffs' counsel received a letter dated February 1, 2007 (a copy of which is annexed and incorporated here in as Exhibit I), from the DOB Records Access Officer indicating with a “check off” on the paragraph stating:

Other: I am still working on your FOIL request [the January 2007 FOIL Request] and will notify you within 10 business [sic] of the date of this letter regarding the status of your request.

34. On February 9, 2007, Plaintiffs' counsel received a similar letter dated February 7, 2007 (a copy of which is annexed hereto and incorporated herein as Exhibit J), from the DOB Records Access Officer with a “check off” on the paragraph stating:

We are still working on your request and I will notify you within 10 business days from the date of this letter regarding the status of your request.

35. The Rules of the City of New York (43 RCNY § 1-01) state, in relevant part:

(d) If, because of unusual circumstances, an agency is unable to determine within five business days whether to grant, deny or otherwise respond to a request for inspection and copying, the records access officer shall, within such five day period, acknowledge receipt of the request in writing to the requesting party, stating the approximate date, not to exceed ten business days from the date of the acknowledgement, by which a determination with respect to the request will be made. If the agency does not make a determination with respect to the request within ten business days from the date of such acknowledgment, the request may be deemed denied and an appeal may be taken to the person or body designated in the agency to hear appeals.

The Denial of Plaintiffs' January 9, 2007 FOIL Request

36. Since no determination had been made within ten business days from the date that the City should have acknowledged receipt of the January 9, 2007 FOIL Request (*i.e.*, January 16, 2007) or within ten business days from the date that the acknowledgment actually was dated (*i.e.*, February 1, 2007), Plaintiffs deemed their request denied.

#### Plaintiffs' February 15, 2007 FOIL Appeal

37. Accordingly, by letter dated February 15, 2007 (a copy of which is annexed and incorporated herein as Exhibit K), Plaintiffs appealed the denial of their January 2007 FOIL Request, stating that:

Given that the documents I requested do not fall within any of the statutory exemptions of Section 87(2) of the Public Officers Law and, that DOB has not provided a basis for denying access to these records, I request that immediate access to the requested documents be provided by DOB.

38. More than 10 business days have elapsed and Plaintiffs have not received a determination regarding the January 9, 2007 FOIL Request nor the February 15, 2007 FOIL Appeal as required by 43 RCNY § 1-06(d).

#### Illegality of the FOIL Refusal Rule

39. The FOIL Refusal Rule was not properly promulgated or published pursuant to Pub. Off. L. § 87(1), 43 RCNY § 1.01(a) or § 1043 of the New York City Charter.

40. The FOIL Refusal Rule violates the Pub. Off. L. § 84, *et seq.*, in that it prevents access to public documents that are not specifically exempted from disclosure by any provision of FOIL, Pub. Off. L. § 84.

41. The FOIL Refusal Rule also unlawfully imposes additional obstacles to obtaining public records not required by FOIL, *i.e.*, having to obtain and provide a letter from the owner of a building authorizing the release of public information, which violates the letter and spirit of FOIL, Pub. Off. L. § 84.

42. Lacking other adequate remedies Plaintiffs seek a judgment declaring that the FOIL Refusal Rule is illegal, null and void and without force or effect.

**As And For A Second Cause Of Action**

43. Plaintiffs repeat all prior allegations.

44. Lacking other adequate remedies, Plaintiffs seek a judgment enjoining Defendants from enforcing the FOIL Refusal Rule.

**As And For A Third Cause Of Action**

45. Plaintiffs repeat all prior allegations.

46. The denial of Plaintiffs' November 28, 2006 FOIL Request violates FOIL and the rules promulgated thereunder, including, among others, 43 RCNY § 1-06, which prohibits a records access officer from serving also as an appeals officer.

47. Lacking other adequate remedies, Plaintiffs seek a judgment declaring that Plaintiffs are entitled to, and DOB must produce, without consent of the owner of the Property, the records and documents requested in Plaintiffs' November 2006 FOIL Request.

**As And For A Fourth Cause Of Action**

48. Plaintiffs repeat all prior allegations.

49. Lacking other adequate remedies, Plaintiffs seek a judgment ordering and compelling Defendants to produce the records requested in Plaintiffs' November 2006 FOIL Request.

**As And For A Fifth Cause Of Action**

50. Plaintiffs repeat all prior allegations.

51. Defendants have not timely responded to Plaintiffs' January 9, 2007 FOIL Request or to Plaintiffs' February 15, 2007 FOIL Appeal.



52. The records sought in the January 9, 2007 FOIL Request and February 15, 2007 FOIL Appeal are not exempt from disclosure pursuant to the Freedom of Information Law.

53. Lacking other adequate remedies, Plaintiffs seek a judgment declaring that Defendants must produce the records and documents sought in Plaintiffs' January 9, 2007 FOIL Request.

**As And For A Sixth Cause Of Action**

54. Plaintiffs repeat all prior allegations.

55. Lacking other adequate remedies, Plaintiffs seek a judgment ordering and compelling Defendants, within ten days, to produce the records and documents sought in Plaintiffs' January 9, 2007 FOIL Request.

**As And For A Seventh Cause Of Action**

56. Plaintiffs repeat all prior allegations.

57. Section 89(4)(c) of the Public Officers Law provides:

The court in such a proceeding may assess, against such agency involved, reasonable attorney's fees and other litigation costs reasonably incurred by such person in any case under the provisions of this section in which such person has substantially prevailed, provided, that such attorney's fees and litigation costs may be recovered only where the court finds that:

- (i) the record involved was, in fact, of clearly significant interest to the general public; and
- (ii) the agency lacked a reasonable basis in law for withholding the record.

58. By reason of the facts herein stated, Plaintiffs are entitled to recover from Defendants their reasonable attorneys' fees and other litigation costs reasonably incurred, in connection with this action.

WHEREFORE, a judgment should be granted:

- (1) Declaring that the FOIL Refusal Rule is illegal, null and void and without force or effect;
- (2) Enjoining Defendants from enforcing the FOIL Refusal Rule;
- (3) Declaring that Plaintiffs are entitled to, and Defendants must produce, without requiring consent of the owner of the Property, the records and documents requested in Plaintiffs' November 28, 2006 FOIL Request;
- (4) Ordering and compelling Defendants, within ten days, to produce the records requested in Plaintiffs' November 28, 2006 FOIL Request;

(5) Declaring that Plaintiffs are entitled to, and Defendants must produce the records and documents requested in Plaintiffs' January 9, 2007 FOIL Request;

(6) Ordering and compelling Defendants, within ten days, to produce the records and documents sought in Plaintiffs' January 9, 2007 FOIL Request;

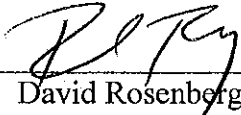
(7) Granting to Plaintiffs their reasonable attorneys' fees and other litigation costs reasonably incurred, in connection with this action; and

(8) granting to Plaintiffs such other and further relief as is appropriate.

Dated: New York, New York  
April 3, 2007

MARCUS ROSENBERG & DIAMOND LLP  
*Attorneys for Plaintiffs*

By: \_\_\_\_\_

  
David Rosenberg  
488 Madison Avenue  
New York, New York 10022  
(212) 755-7500

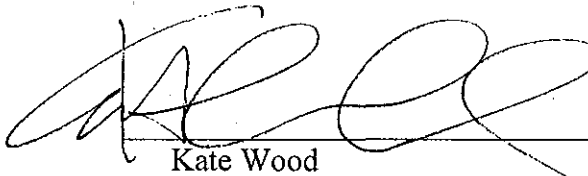
**VERIFICATION**

STATE OF NEW YORK                     )  
  :        ss.:  
COUNTY OF NEW YORK    )

Kate Wood, being duly sworn, deposes and says:

(1)     I am an individually named plaintiff and Executive Director of plaintiff Landmark West! and make this verification on my own behalf and that of Landmark West!

(2)     I have read the foregoing complaint and the contents thereof and I know the same to be true to my own knowledge, except as to matters therein stated upon information and belief, as to which latter matters, my belief is based upon documents and records in our office.

  
\_\_\_\_\_  
Kate Wood

Sworn to before me this  
3 day of April, 2007

  
\_\_\_\_\_  
Notary Public

**BRUCE H. SIMON**  
**Notary Public, State of New York**  
**No. 02-3677450**  
**Qualified in New York**  
**Commission Expires 10-31-09**

**EXHIBIT A**

# LANDMARK WEST!

THE COMMITTEE TO PRESERVE THE UPPER WEST SIDE

November 28, 2006

Records Access Officer  
New York City Department of Buildings  
280 Broadway, 7th floor  
New York, NY 10007

Dear Friends:

This is a Freedom of Information Law request. Please supply the undersigned with copies of all file materials relating to the following property:

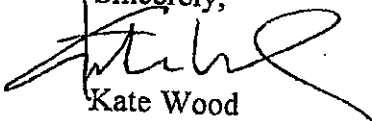
- BIN #1028510 (6-10 West 70<sup>th</sup> St., Manhattan, Block/Lot: 1122/37)

A member of my staff visited the Department of Buildings on Wednesday, November 22, 2006, and submitted a request for access to these files. The desk attendant informed her that the building records were marked "sensitive" and that a FOIL request should be filed in order to gain access.

Please notify me when these materials are available for review.

Thank you for your attention to this matter.

Sincerely,

  
Kate Wood  
Executive Director

REC'D DEPT. OF BUILDINGS  
2006 NOV 30 P 4:51  
RECEIVED  
CITY AFFAIRS

**EXHIBIT B**





NYC Department of Buildings  
280 Broadway, New York, NY 10007

Patricia J. Lancaster, FAIA, Commissioner

November 30, 2006

Kate Wood  
Executive Director  
LandmarkWest!  
45 West 67<sup>th</sup> Street  
New York, New York 10023

Re: 6-10 West 70<sup>th</sup> Street, New York, NY

Dear Madam/Sir:

This responds to your request for information governed by the Freedom of Information Law (FOIL).

✓ All public records maintained by the Department of Buildings (DOB) are routinely made available for public inspection at the office / division of the New York City Department of Buildings at which said records are maintained. Please contact the Manhattan Borough Office located at 280 Broadway - 3<sup>rd</sup> Floor (212) 566-0248 to determine the hours at which the records you have requested are available. Any further questions regarding your request should be directed to the Records Control Officer for the respective office/division of this Department. **The records will not be available at the time you call.**

- The documents you requested are available for inspection at the Municipal Library located at 31 Chambers Street, Suite 112, New York, NY 10007 (212) 788-8590.
- The information you seek is not within the jurisdiction of DOB. Please direct your request to
- A search of DOB files has revealed no such documents.
- Your request is denied under §87(2) of the Public Officer's Law because the documents requested are

✓ **Other: You will have to submit a letter from the owner on their letterhead explaining why you are looking for records also you must give the Record Room a copy of your photo Id. The record room staff will explain the process to you.**

You have the right to appeal this determination by writing to the Deputy General Counsel FOIL Appeals Officer, 280 Broadway, 7th Floor, New York, NY 10007, within 30 days of this letter.

Sincerely,

Angela Orridge  
Records Access Officer

**Mona Sehgal**  
General Counsel  
212.566.3353  
212.566.3843 fax  
monas@buildings.nyc.gov

Manhattan Borough Office  
280 Broadway, 3<sup>rd</sup> Fl.  
(212) 566-0248

Brooklyn Borough Office  
210 Joralemon Street  
(718) 802-3675

Bronx Borough Office  
1932 Arthur Avenue  
(718) 579-6923

Queens Borough Office  
120-55 Queens Boulevard  
(718) 286-0795

Staten Island Borough Office  
10 Richmond Ave - Borough Hall  
(718) 816-2315

Central Inspections  
280 Broadway, 4<sup>th</sup> Floor  
(212) 566-5475

Elevator Division  
280 Broadway, 4<sup>th</sup> Fl.  
(212) 566-4856

Boiler Division  
280 Broadway, 4<sup>th</sup> Fl.  
(212) 566-4872

Cranes and Derricks  
280 Broadway, 5<sup>th</sup> Fl.  
(212) 566-4698

BEST Squad  
1 Centre Street  
(212) 669-8132

Enforcement Division  
280 Broadway, 5<sup>th</sup> Fl.  
(212) 566-4847

**EXHIBIT C**

NYC **BUILDINGS**  
safety service integrity

## Record Division

Legal Processing / Notification Letter

LANDMARKWEST  
45 WEST 67ST  
NEW YORK, NY 10023  
Attention: KATE WOOD

12/5/2006

Premises: 6-10 WEST 70 ST

Borough: MANHATTAN

Reference Number: 2324

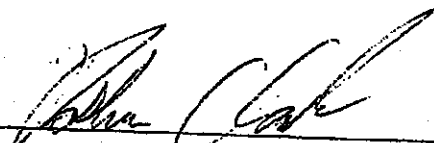
Dear Customer,

The Department of Buildings / Record Division, located in Manhattan, received your F.O.I.L or Legal Request. We have researched and prepared all available records for viewing. Please follow the instructions indicated with an "X" below:

☒ Please make an appointment, to view these available records, within ten (10) business days from the receipt of this letter. If we do not hear from you (within 10 business days), we must return all records to its original file to make accessible to the public.

☒ Due to the 9/11 tragedy, the records for the block and lot or address listed in your request are considered "sensitive". In order to obtain agency clearance to release these records, please forward a letter from the owner / managing agent (on record) authorizing you to have access.

Thank you,

  
Record Coordinator: RASHEEM CLARK

Contact / Telephone No.: (212) 566- 0248

Note: If you do not respond within 10 business days, we will be glad to provide you with a list of available records that were researched by our office. You may come (in-person) to request these records, using the agency's standard request procedures. Please be advised that photocopying fees for certified documents, using standard procedures, are different from certified copies requested under FOIL.

**EXHIBIT D**

**MARCUS ROSENBERG & DIAMOND LLP**

**488 MADISON AVENUE  
NEW YORK, NEW YORK 10022**

**Telephone (212) 755-7500  
Telefax (212) 755-8713**

December 12, 2006

Mona Sehgal, Esq.  
General Counsel  
New York City Department of  
Buildings  
280 Broadway  
New York, New York 10007

Re: Shearith Israel  
6-10 West 70th Street  
New York, New York 10023  
Block 1122, Lot 37  
DOB BIN No. 1028510  
Your Reference No. 2324

Dear Ms. Sehgal:

I am writing to you as an attorney for Landmark West!, an award-winning non-profit grassroots community organization, which has worked for many years to protect the historic architecture of the Upper West Side and to improve the community for all of its residents.

To my knowledge, the members and staff of Landmark West! are well-respected, taxpaying and voting citizens of the United States and, for the most part, residents of the City of New York.

To my knowledge, no member or employee of Landmark West! has been accused of being a terrorist or a member of any real or imagined terrorist organization.

If the Department of Buildings possesses any contrary information, I would appreciate it if you would so advise me.

The Reason For The Letter

On November 22, 2006, a Landmark West! representative visited the Manhattan office of the Department of Buildings ("DOB") and requested access to the file

Mona Sehgal, Esq.  
Page 2  
December 12, 2006

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on the above property (the "Property"), the owner of which has announced plans for a new building adjacent to its synagogue.

The desk attendant informed the Landmark West! representative that the records with respect to the Property were marked "sensitive" and that a FOIL request was required in order to obtain access to them. Obviously, this is contrary to the normal practice where such files are available to licensed design professionals, contractors, expeditors and members of the public (unless, as is frequently explained, they have been misplaced or otherwise cannot be located).

By letter dated November 28, 2006, Kate Wood, Executive Director of Landmark West!, filed a formal FOIL request for the file and described the prior unsuccessful attempt to obtain access.

Ms. Wood received what appears to be a form letter, dated November 30, 2006, from Angela Orridge, Records Access Officer, which stated, in relevant part:

All public records maintained by the Department of Buildings (DOB) are routinely made available for public inspection in the office/division of the New York City Department of Buildings at which said records are maintained. . . .

This was followed with a list of potential responses, with a "check" before the following paragraph:

Other: You will have to submit a letter from the owner on their letterhead explaining why you are looking for records also you must give the Record Room a copy of your photo Id. The record room staff will explain the process to you.

In turn, this was followed by a December 5, 2006 letter from Record Coordinator Rashem Clark, Record Division, Legal Processing/Notification Letter, which stated that the records were available at DOB's Manhattan office, but:

Due to the 9/11 tragedy, the records for the block and lot or address listed in your request are considered "sensitive". In order to obtain agency clearance to release these records, please forward a letter from the owner/managing agent (on record) authorizing you to have access.

Mona Sehgal, Esq.  
Page 3  
December 12, 2006

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The Lack of Any Legal  
Basis For DOB's Actions

Section 87(2) of the Public Officers Law, cited in the November 30, 2006 letter of Angela Orridge, Records Access Officer, states:

2. Each agency shall, in accordance with its published rules, make available for public inspection and copying all records, except that such agency may deny access to records or portions thereof that:

(a) are specifically exempted from disclosure by state or federal statute;

(b) if disclosed would constitute an unwarranted invasion of personal privacy under the provisions of subdivision two of section eighty-nine of this article;

(c) if disclosed would impair present or imminent contract awards or collective bargaining negotiations;

(d) are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury in the competitive position of the subject enterprise;

(e) are compiled for law enforcement purposes and which, if disclosed, would:

(i) interfere with law enforcement investigations or judicial proceedings;

(ii) deprive a person of a right to a fair trial or impartial adjudication;

Mona Sehgal, Esq.  
Page 4  
December 12, 2006

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(iii) identify a confidential source or disclose confidential information relating to a criminal investigation; or

(iv) reveal criminal investigative techniques or procedures, except routine techniques and procedures;

(f) if disclosed would endanger the life or safety of any person;

(g) are inter-agency or intra-agency materials which are not:

(i) statistical or factual tabulations or data;

(ii) instructions to staff that affect the public;

(iii) final agency policy or determinations;

(iv) external audits, including but not limited to audits performed by the comptroller and the federal government; or

(h) are examination questions or answers which are requested prior to the final administration of such questions;

(i) are computer access codes. . . .

Section 87(2) contains ten subdivisions, none of which are cited in either letter. Nor has DOB otherwise provided an articulation of the particularized and specific justification which is required of an agency seeking to deny access to public records.

Moreover, the requirement to obtain "a letter from the owner on their [*sic*] letterhead explaining why you are looking for records. . . ." or "a letter from the



Mona Sehgal, Esq.

Page 5

December 12, 2006

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owner/managing agent (on record) authorizing you to have access" is neither imposed by any statute nor applied to other properties.

The blanket suggestion that "the 9/11 tragedy" justifies this policy has no support in the statute or case law. Nor does it appear that DOB has adopted regulations defining "sensitive" properties.

Even if a Jewish synagogue is a potential target of some terrorist groups, so are many other buildings. Moreover, it is hard to imagine how it would be necessary for a terrorist to have DOB files to locate the entrances to such a building.

Nor is there any logical or legal basis for delegating DOB's determinations to the owner of the property.

Finally, in this case, the application of such a rule is absurd, in that plans already have been shown and discussed at the Landmarks Preservation Commission and, apparently, will be shown and discussed at Community Boards and at the Board of Standards and Appeals.

#### Requested Relief

Obviously, Landmark West! requests immediate access to the designated files so that it may review the plans and provide comments in a timely manner.

More than this, Landmark West! requests that DOB reconsider its present policy for "sensitive" buildings and eliminate it or, at least, promulgate standards consistent with the Public Officers Law after an opportunity for public comment.

The Freedom of Information Law is one of the landmarks of open and transparent government, providing access to information necessary for citizens to effectively petition their government, one of the rights guaranteed by the First Amendment to the United States Constitution. The Freedom of Information Law also serves as a protection against abuses by government which would deprive its citizens of their rights.

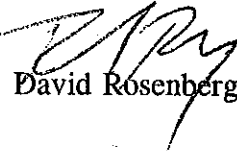
To the extent that the tragic events of September 11 are cited as the basis for limiting or eliminating such rights of our citizens, then the terrorists have achieved continuing and far-reaching success.

Mona Sehgal, Esq.  
Page 6  
December 12, 2006

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Please consider this when reviewing this request.

Very truly yours,



David Rosenberg

DR/pab

cc: Committee on Open Government  
Landmark West!

# LANDMARK WEST!

THE COMMITTEE TO PRESERVE THE UPPER WEST SIDE

November 28, 2006

Records Access Officer  
New York City Department of Buildings  
280 Broadway, 7th floor  
New York, NY 10007

Dear Friends:

This is a Freedom of Information Law request. Please supply the undersigned with copies of all file materials relating to the following property:

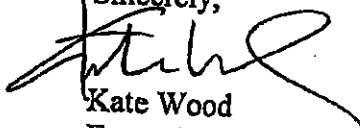
- BIN #1028510 (6-10 West 70<sup>th</sup> St., Manhattan, Block/Lot: 1122/37)

A member of my staff visited the Department of Buildings on Wednesday, November 22, 2006, and submitted a request for access to these files. The desk attendant informed her that the building records were marked "sensitive" and that a FOIL request should be filed in order to gain access.

Please notify me when these materials are available for review.

Thank you for your attention to this matter.

Sincerely,

  
Kate Wood  
Executive Director

REC'D DEPT. OF BUILDINGS  
GENERAL AFFAIRS  
RECEIVED  
2006 NOV 30 P 4:51



NYC Department of Buildings  
280 Broadway, New York, NY 10007

Patricia J. Lancaster, FAIA, Commissioner

November 30, 2006

Kate Wood  
Executive Director  
LandmarkWest!  
45 West 67<sup>th</sup> Street  
New York, New York 10023

Re: 6-10 West 70<sup>th</sup> Street, New York, NY

Dear Madam/Sir:

This responds to your request for information governed by the Freedom of Information Law (FOIL).

All public records maintained by the Department of Buildings (DOB) are routinely made available for public inspection at the office / division of the New York City Department of Buildings at which said records are maintained. Please contact the Manhattan Borough Office located at 280 Broadway - 3<sup>rd</sup> Floor (212) 566-0248 to determine the hours at which the records you have requested are available. Any further questions regarding your request should be directed to the Records Control Officer for the respective office/division of this Department. The records will not be available at the time you call.

- The documents you requested are available for inspection at the Municipal Library located at 31 Chambers Street, Suite 112, New York, NY 10007 (212) 788-8590.
- The information you seek is not within the jurisdiction of DOB. Please direct your request to
- A search of DOB files has revealed no such documents.
- Your request is denied under §87(2) of the Public Officer's Law because the documents requested are
- ✓ Other: You will have to submit a letter from the owner on their letterhead explaining why you are looking for records also you must give the Record Room a copy of your photo Id. The record room staff will explain the process to you.
- You have the right to appeal this determination by writing to the Deputy General Counsel FOIL Appeals Officer, 280 Broadway, 7th Floor, New York, NY 10007, within 30 days of this letter.

Sincerely,

  
Angela Orridge  
Records Access Officer

Mona Sehgal  
General Counsel  
212.566.3353  
212.566.3843 fax  
monas@buildings.nyc.gov

Manhattan Borough Office  
280 Broadway, 3<sup>rd</sup> Fl.  
(212) 566-0248

Brooklyn Borough Office  
210 Joralemon Street  
(718) 802-3675

Bronx Borough Office  
1932 Arthur Avenue  
(718) 579-6923

Queens Borough Office  
120-55 Queens Boulevard  
(718) 286-0795

Staten Island Borough Office  
10 Richmond Ave - Borough Hall  
(718) 816-2315

Central Inspections  
280 Broadway, 4<sup>th</sup> Floor  
(212) 566-5475

Elevator Division  
280 Broadway, 4<sup>th</sup> Fl.  
(212) 566-4856

Boiler Division  
280 Broadway, 4<sup>th</sup> Fl.  
(212) 566-4872

Cranes and Derricks  
280 Broadway, 5<sup>th</sup> Fl.  
(212) 566-4698

BEST Squad  
1 Centre Street  
(212) 669-8132

Enforcement Division  
280 Broadway, 5<sup>th</sup> Fl.  
(212) 566-4847

**EXHIBIT E**

**MARCUS ROSENBERG & DIAMOND LLP**

**488 MADISON AVENUE  
NEW YORK, NEW YORK 10022**

**Telephone (212) 755-7500  
Telefax (212) 755-8713**

January 26, 2007

Mona Sehgal, Esq.  
General Counsel  
New York City Department of  
Buildings  
280 Broadway  
New York, New York 10007

Re: Shearith Israel  
6-10 West 70th Street  
New York, New York 10023  
Block 1122, Lot 37  
DOB BIN No. 1028510  
Your Reference No. 2324

Dear Ms. Sehgal:

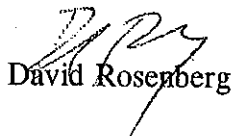
On December 12, 2007, I sent you the enclosed appeal from the denial of my FOIL request for access to certain documents. To date, I have not received a response from you.

I respectfully suggest that, since you have failed to provide a full explanation in writing of the reasons for said denial of this request, access must be provided by the Department of Buildings forthwith.

I would appreciate it if you would inform the Records Access Officer to make such records available to me, together with a confirmation to me.

Thank you for your anticipated cooperation

Very truly yours,

  
David Rosenberg

DR/pab

cc: Committee on Open Government  
Landmark West!

**MARCUS ROSENBERG & DIAMOND LLP**  
488 MADISON AVENUE  
NEW YORK, NEW YORK 10022

Telephone (212) 755-7500  
Telefax (212) 755-8713

December 12, 2006

Mona Sehgal, Esq.  
General Counsel  
New York City Department of  
Buildings  
280 Broadway  
New York, New York 10007

Re: Shearith Israel  
6-10 West 70th Street  
New York, New York 10023  
Block 1122, Lot 37  
DOB BIN No. 1028510  
Your Reference No. 2324

Dear Ms. Sehgal:

I am writing to you as an attorney for Landmark West!, an award-winning non-profit grassroots community organization, which has worked for many years to protect the historic architecture of the Upper West Side and to improve the community for all of its residents.

To my knowledge, the members and staff of Landmark West! are well-respected, taxpaying and voting citizens of the United States and, for the most part, residents of the City of New York.

To my knowledge, no member or employee of Landmark West! has been accused of being a terrorist or a member of any real or imagined terrorist organization.

If the Department of Buildings possesses any contrary information, I would appreciate it if you would so advise me.

The Reason For The Letter

On November 22, 2006, a Landmark West! representative visited the Manhattan office of the Department of Buildings ("DOB") and requested access to the file

Mona Sehgal, Esq.

Page 2

December 12, 2006

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on the above property (the "Property"), the owner of which has announced plans for a new building adjacent to its synagogue.

The desk attendant informed the Landmark West! representative that the records with respect to the Property were marked "sensitive" and that a FOIL request was required in order to obtain access to them. Obviously, this is contrary to the normal practice where such files are available to licensed design professionals, contractors, expeditors and members of the public (unless, as is frequently explained, they have been misplaced or otherwise cannot be located).

By letter dated November 28, 2006, Kate Wood, Executive Director of Landmark West!, filed a formal FOIL request for the file and described the prior unsuccessful attempt to obtain access.

Ms. Wood received what appears to be a form letter, dated November 30, 2006, from Angela Orridge, Records Access Officer, which stated, in relevant part:

All public records maintained by the Department of Buildings (DOB) are routinely made available for public inspection in the office/division of the New York City Department of Buildings at which said records are maintained. . . .

This was followed with a list of potential responses, with a "check" before the following paragraph:

Other: You will have to submit a letter from the owner on their letterhead explaining why you are looking for records also you must give the Record Room a copy of your photo Id. The record room staff will explain the process to you.

In turn, this was followed by a December 5, 2006 letter from Record Coordinator Rashem Clark, Record Division, Legal Processing/Notification Letter, which stated that the records were available at DOB's Manhattan office, but:

Due to the 9/11 tragedy, the records for the block and lot or address listed in your request are considered "sensitive". In order to obtain agency clearance to release these records, please forward a letter from the owner/managing agent (on record) authorizing you to have access.



Mona Sehgal, Esq.  
Page 3  
December 12, 2006

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The Lack of Any Legal  
Basis For DOB's Actions

Section 87(2) of the Public Officers Law, cited in the November 30, 2006 letter of Angela Orridge, Records Access Officer, states:

2. Each agency shall, in accordance with its published rules, make available for public inspection and copying all records, except that such agency may deny access to records or portions thereof that:

(a) are specifically exempted from disclosure by state or federal statute;

(b) if disclosed would constitute an unwarranted invasion of personal privacy under the provisions of subdivision two of section eighty-nine of this article;

(c) if disclosed would impair present or imminent contract awards or collective bargaining negotiations;

(d) are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury in the competitive position of the subject enterprise;

(e) are compiled for law enforcement purposes and which, if disclosed, would:

(i) interfere with law enforcement investigations or judicial proceedings;

(ii) deprive a person of a right to a fair trial or impartial adjudication;

Mona Sehgal, Esq.

Page 4

December 12, 2006

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(iii) identify a confidential source or disclose confidential information relating to a criminal investigation; or

(iv) reveal criminal investigative techniques or procedures, except routine techniques and procedures;

(f) if disclosed would endanger the life or safety of any person;

(g) are inter-agency or intra-agency materials which are not:

(i) statistical or factual tabulations or data;

(ii) instructions to staff that affect the public;

(iii) final agency policy or determinations;

(iv) external audits, including but not limited to audits performed by the comptroller and the federal government; or

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(i) are computer access codes. . . .

Section 87(2) contains ten subdivisions, none of which are cited in either letter. Nor has DOB otherwise provided an articulation of the particularized and specific justification which is required of an agency seeking to deny access to public records.

Moreover, the requirement to obtain "a letter from the owner on their [sic] letterhead explaining why you are looking for records. . . ." or "a letter from the

Mona Sehgal, Esq.

Page 5

December 12, 2006

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owner/managing agent (on record) authorizing you to have access" is neither imposed by any statute nor applied to other properties.

The blanket suggestion that "the 9/11 tragedy" justifies this policy has no support in the statute or case law. Nor does it appear that DOB has adopted regulations defining "sensitive" properties.

Even if a Jewish synagogue is a potential target of some terrorist groups, so are many other buildings. Moreover, it is hard to imagine how it would be necessary for a terrorist to have DOB files to locate the entrances to such a building.

Nor is there any logical or legal basis for delegating DOB's determinations to the owner of the property.

Finally, in this case, the application of such a rule is absurd, in that plans already have been shown and discussed at the Landmarks Preservation Commission and, apparently, will be shown and discussed at Community Boards and at the Board of Standards and Appeals.

#### Requested Relief

Obviously, Landmark West! requests immediate access to the designated files so that it may review the plans and provide comments in a timely manner.

More than this, Landmark West! requests that DOB reconsider its present policy for "sensitive" buildings and eliminate it or, at least, promulgate standards consistent with the Public Officers Law after an opportunity for public comment.

The Freedom of Information Law is one of the landmarks of open and transparent government, providing access to information necessary for citizens to effectively petition their government, one of the rights guaranteed by the First Amendment to the United States Constitution. The Freedom of Information Law also serves as a protection against abuses by government which would deprive its citizens of their rights.

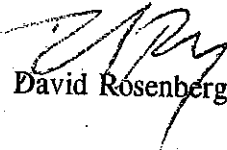
To the extent that the tragic events of September 11 are cited as the basis for limiting or eliminating such rights of our citizens, then the terrorists have achieved continuing and far-reaching success.

Mona Sehgal, Esq.  
Page 6  
December 12, 2006

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Please consider this when reviewing this request.

Very truly yours,



David Rosenberg

DR/pab

cc: Committee on Open Government  
Landmark West!

# LANDMARK WEST!

THE COMMITTEE TO PRESERVE THE UPPER WEST SIDE

November 28, 2006

Records Access Officer  
New York City Department of Buildings  
280 Broadway, 7th floor  
New York, NY 10007

Dear Friends:

This is a Freedom of Information Law request. Please supply the undersigned with copies of all file materials relating to the following property:

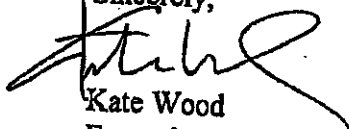
- BIN #1028510 (6-10 West 70<sup>th</sup> St., Manhattan, Block/Lot: 1122/37)

A member of my staff visited the Department of Buildings on Wednesday, November 22, 2006, and submitted a request for access to these files. The desk attendant informed her that the building records were marked "sensitive" and that a FOIL request should be filed in order to gain access.

Please notify me when these materials are available for review.

Thank you for your attention to this matter.

Sincerely,

  
Kate Wood  
Executive Director

REC'D DEPT. OF BUILDINGS  
GENERAL AFFAIRS  
RECEIVED  
2006 NOV 30 P 4:51

**NYC BUILDINGS**

NYC Department of Buildings  
280 Broadway, New York, NY 10007

Patricia J. Lancaster, FAIA, Commissioner

November 30, 2006

Kate Wood  
Executive Director  
LandmarkWest!  
45 West 67<sup>th</sup> Street  
New York, New York 10023

Re: 6-10 West 70<sup>th</sup> Street, New York, NY

Dear Madam/Sir:

This responds to your request for information governed by the Freedom of Information Law (FOIL).

✓ All public records maintained by the Department of Buildings (DOB) are routinely made available for public inspection at the office / division of the New York City Department of Buildings at which said records are maintained. Please contact the Manhattan Borough Office located at 280 Broadway - 3<sup>rd</sup> Floor (212) 566-0248 to determine the hours at which the records you have requested are available. Any further questions regarding your request should be directed to the Records Control Officer for the respective office/division of this Department. The records will not be available at the time you call.

- The documents you requested are available for inspection at the Municipal Library located at 31 Chambers Street, Suite 112, New York, NY 10007 (212) 788-8590.

- The information you seek is not within the jurisdiction of DOB. Please direct your request to

- A search of DOB files has revealed no such documents.

- Your request is denied under §87(2) of the Public Officer's Law because the documents requested are

✓ Other: You will have to submit a letter from the owner on their letterhead explaining why you are looking for records also you must give the Record Room a copy of your photo Id. The record room staff will explain the process to you.

- You have the right to appeal this determination by writing to the Deputy General Counsel FOIL Appeals Officer, 280 Broadway, 7<sup>th</sup> Floor, New York, NY 10007, within 30 days of this letter.

Sincerely,

  
Angela Onifade  
Records Access Officer

Mona Sehgal  
General Counsel  
212.566.3353  
212.566.3843 fax  
monas@buildings.nyc.gov

Manhattan Borough Office  
280 Broadway, 3<sup>rd</sup> Fl.  
(212) 566-0248

Brooklyn Borough Office  
210 Joralemon Street  
(718) 802-3675

Bronx Borough Office  
1932 Arthur Avenue  
(718) 579-6923

Queens Borough Office  
120-55 Queens Boulevard  
(718) 286-0795

Staten Island Borough Office  
10 Richmond Ave - Borough Hall  
(718) 816-2315

Central Inspections  
280 Broadway, 4<sup>th</sup> Floor  
(212) 566-5475

Elevator Division  
280 Broadway, 4<sup>th</sup> Fl.  
(212) 566-4856

Boiler Division  
280 Broadway, 4<sup>th</sup> Fl.  
(212) 566-4872

Cranes and Derricks  
280 Broadway, 5<sup>th</sup> Fl.  
(212) 566-4698

BEST Squad  
1 Centre Street  
(212) 669-8132

Enforcement Division  
280 Broadway, 5<sup>th</sup> Fl.  
(212) 566-4847

**NYC BUILDINGS**  
safety service integrity

**Record Division**

Legal Processing / Notification Letter

12/5/2006

LANDMARKWEST  
45 WEST 67ST  
NEW YORK, NY 10023  
Attention: KATE WOOD

Premises: 6-10 WEST 70 ST

Borough: MANHATTAN

Reference Number: 2324

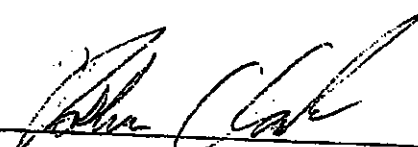
Dear Customer,

The Department of Buildings / Record Division, located in Manhattan, received your F.O.I.L or Legal Request. We have researched and prepared all available records for viewing. Please follow the instructions indicated with an "X" below:

☒ Please make an appointment, to view these available records, within ten (10) business days from the receipt of this letter. If we do not hear from you (within 10 business days), we must return all records to its original file to make accessible to the public.

☒ Due to the 9/11 tragedy, the records for the block and lot or address listed in your request are considered "sensitive". In order to obtain agency clearance to release these records, please forward a letter from the owner / managing agent (on record) authorizing you to have access.

Thank you,

  
Record Coordinator: RASHEEM CLARK

Contact / Telephone No.: (212) 566- 0248

Note: If you do not respond within 10 business days, we will be glad to provide you with a list of available records that were researched by our office. You may come (in-person) to request these records, using the agency's standard request procedures. Please be advised that photocopying fees for certified documents, using standard procedures, are different from certified copies requested under FOIL.

**EXHIBIT F**





NYC Department of Buildings  
280 Broadway, New York, NY 10007

Patricia J. Lancaster, FAIA, Commissioner

**Felicia R. Miller**

Deputy General Counsel  
Office of the General Counsel  
212.566.3296  
212.566-3843 fax  
[felciam@buildings.nyc.gov](mailto:felciam@buildings.nyc.gov)

January 29, 2007

David Rosenberg, Esq.  
Marcus Rosenberg & Diamond LLP  
488 Madison Avenue  
New York, New York 10022

Re: FOIL Appeal  
6-10 West 70<sup>th</sup> Street

Dear Mr. Rosenberg:

This responds to your letter dated January 26, 2007 wherein you reference a letter dated December 12, 2006 in which you appeal the Department's denial of records included in a job folder for the referenced premises.

It appears that you may not have received the attached response dated January 12, 2007 where we advised that the application folder would be made available at the Borough Office, but that plans could not be released. As stated in that letter, the plans are not released under FOIL since it has been determined that disclosure of the plans for this building, which post-9/11/01 has been designated a "sensitive building," may endanger the life or safety of persons. However, there is a process for individuals to obtain the plans as well. You may contact Investigator Kim Rivers at the Department's IAD office, (212) 442-2000, to obtain a requisition form for the plans. This form must be accompanied by a letter from the property owner, on the owner's letterhead, authorizing the requester to have access to the sensitive building records. The requester must also present identification, such as a driver's license, to obtain a copy of the plans.

We trust this clarifies the matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Felicia R. Miller", with a long, sweeping horizontal line extending to the right.

Felicia R. Miller  
Deputy General Counsel

C: Mona Sehgal, General Counsel  
Mark Sanabria, Director – IAD

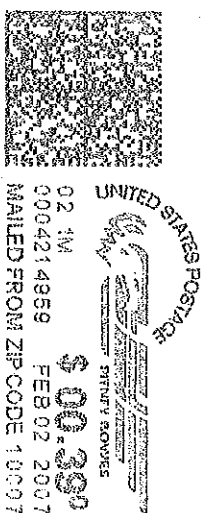
Kim Rivers, Investigator - IAD  
Angela Orridge, Records Access Officer

Robert Freeman  
Committee on Open Government, Dept. of State

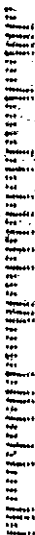
The City of New York  
Department of Buildings  
280 Broadway  
New York, NY 10007-1801

FEB - 5 2007

David Rosenberg, Esq.  
Marcus Rosenberg & Diamond LLP  
488 Madison Avenue  
New York, NY 10022



10022-15702



**EXHIBIT G**



NYC Department of Buildings  
280 Broadway, New York, NY 10007

Patricia J. Lancaster, FAIA, Commissioner

January 12, 2007

Kate Wood  
Executive Director  
LandMark West!  
45 West 67<sup>th</sup> Street  
New York, New York 10023

Re: 6-10 West 70<sup>th</sup> Street, New York, NY

Dear Madam/Sir:

This responds to your request for information governed by the Freedom of Information Law (FOIL).

✓ All public records maintained by the Department of Buildings (DOB) are routinely made available for public inspection at the office / division of the New York City Department of Buildings at which said records are maintained. Please contact the Manhattan Borough Office located at 280 Broadway - 3<sup>rd</sup> Floor (212) 566-0248 to determine the hours at which the records you have requested are available. Any further questions regarding your request should be directed to the Records Control Officer for the respective office/division of this Department. **The records will not be available at the time you call.**

- The documents you requested are available for inspection at the Municipal Library located at 31 Chambers Street, Suite 112, New York, NY 10007 (212) 788-8590.

- The information you seek is not within the jurisdiction of DOB. Please direct your request to

- A search of DOB files has revealed no such documents.

✓ Your request will be granted in part and denied in part. Under FOIL the Department will release copies of all documents we have pertaining to the above referenced address but we will not release copies of plans. We are withholding the plans under §87(2)(f) of the Public Officer's Law on the grounds that, if disclosed, the documents requested would endanger the life or safety of any person.

- Other:

**Mona Sehgal**  
General Counsel  
212.566.3353  
212.566.3843 fax  
monas@buildings.nyc.gov

**Manhattan Borough Office**  
280 Broadway, 3<sup>rd</sup> Fl.  
(212) 566-0248

**Brooklyn Borough Office**  
210 Joralemon Street  
(718) 802-3675

**Bronx Borough Office**  
1932 Arthur Avenue  
(718) 579-6923

**Queens Borough Office**  
120-55 Queens Boulevard  
(718) 286-0795

**Staten Island Borough Office**  
10 Richmond Ave - Borough Hall  
(718) 816-2315

**Central Inspections**  
280 Broadway, 4<sup>th</sup> Floor  
(212) 566-5475

**Elevator Division**  
280 Broadway, 4<sup>th</sup> Fl.  
(212) 566-4856

**Boiler Division**  
280 Broadway, 4<sup>th</sup> Fl.  
(212) 566-4872

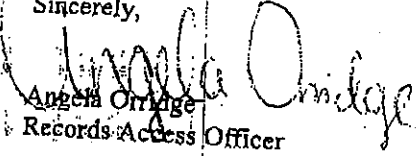
**Cranes and Derricks**  
280 Broadway, 5<sup>th</sup> Fl.  
(212) 566-4698

**BEST Squad**  
1 Centre Street  
(212) 669-8132

**Enforcement Division**  
280 Broadway, 5<sup>th</sup> Fl.  
(212) 566-4847

You have the right to appeal this determination by writing to the Deputy  
General Counsel FOIL Appeals Officer, 280 Broadway, 7th Floor, New  
York, NY 10007, within 30 days of this letter.

Sincerely,

  
Angela Orledge  
Records Access Officer

**EXHIBIT H**

**MARCUS ROSENBERG & DIAMOND LLP**

**488 MADISON AVENUE  
NEW YORK, NEW YORK 10022**

**Telephone (212) 755-7500  
Telefax (212) 755-8713**

(212) 755-8708

January 9, 2007

**Via Facsimile Transmission  
(212-566-3843) and First Class Mail**

Ms. Angela Orridge, Records Access Officer  
New York City Department of Buildings  
280 Broadway, 7th Floor  
New York, New York 10007

Re: "Sensitive" Records

Dear Ms. Orridge:

Pursuant to the Freedom of Information Law ("FOIL"), Article 6 of the Public Officers Law, this is to request copies of, or an appointment to inspect and photocopy the originals of, the following:

- Documents describing all properties within the City of New York, identified by street address, block and lot, and all other matters which the Department of Buildings ("DOB") has treated, characterized or classified or is treating, characterizing or classifying as "sensitive";
- Documents evidencing the standards, if any, pursuant to which the "sensitive" classification was established and pursuant to which it has been applied and is being applied;
- Documents identifying the person or persons or titles of office who have made and who are making the determination as to which DOB records are "sensitive";



Ms. Angela Orridge  
Records Information Officer  
Page 2  
January 9, 2007

- Documents pursuant to which the procedure to treat records as "sensitive" was adopted or established and all communications with respect thereto, excepting only those which may be subject to attorney-client or other privilege or exempt from FOIL disclosure by statute and, if any such privilege or exemption which is claimed, specifically identifying the privilege or exemption is claimed with respect to each such record as to which DOB refuses to provide access.

Please call if you have any questions.

Thank you for your anticipated cooperation.

Very truly yours,

  
David Rosenberg

DR:pab

**EXHIBIT I**



NYC Department of Buildings  
280 Broadway, New York, NY 10007

Patricia J. Lancaster, FAIA, Commissioner

**Mona Sehgal**  
General Counsel  
212.566.3353  
212.566.3843 fax  
monas@buildings.nyc.gov

February 1, 2007

David Rosenberg  
Marcus Rosenberg & Diamond LLP  
488 Madison Avenue  
New York, New York 10022

Manhattan Borough Office  
280 Broadway, 3<sup>rd</sup> Fl.  
(212) 566-0248

Brooklyn Borough Office  
210 Joralemon Street  
(718) 802-3675

Bronx Borough Office  
1932 Arthur Avenue  
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Queens Borough Office  
120-55 Queens Boulevard  
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Staten Island Borough Office  
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Central Inspections  
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280 Broadway, 4<sup>th</sup> Fl.  
(212) 566-4856

Boiler Division  
280 Broadway, 4<sup>th</sup> Fl.  
(212) 566-4872

Cranes and Derricks  
280 Broadway, 5<sup>th</sup> Fl.  
(212) 566-4698

BEST Squad  
1 Centre Street  
(212) 669-8132

Enforcement Division  
280 Broadway, 5<sup>th</sup> Fl.  
(212) 566-4847

Re: "Sensitive" Records

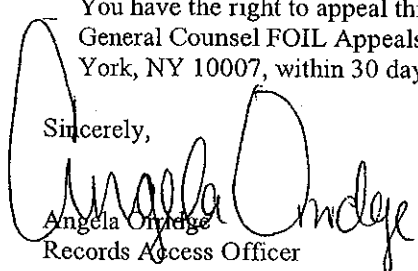
Dear Madam/Sir:

This responds to your request for information governed by the Freedom of Information Law (FOIL).

- All public records maintained by the Department of Buildings (DOB) are routinely made available for public inspection at the office / division of the New York City Department of Buildings at which said records are maintained. Please contact the <ENTER> to determine the hours at which the records you have requested are available. Any further questions regarding your request should be directed to the Records Control Officer for the respective office/division of this Department. **The records will not be available at the time you call.**
- The documents you requested are available for inspection at the Municipal Library located at 31 Chambers Street, Suite 112, New York, NY 10007 (212) 788-8590.
- The information you seek is not within the jurisdiction of DOB. Please direct your request to
- A search of DOB files has revealed no such documents.
- Your request is denied under §87(2) of the Public Officer's Law because the documents requested are
- ✓ **Other: I am still working on your FOIL request and will notify you within 10 business of the date of this letter regarding the status of your request.**

You have the right to appeal this determination by writing to the Deputy General Counsel FOIL Appeals Officer, 280 Broadway, 7th Floor, New York, NY 10007, within 30 days of this letter.

Sincerely,

  
Angela Onofrey  
Records Access Officer

The City of New York  
Department of Buildings  
280 Broadway  
New York, NY 10007-1801

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1001042300

FEB - 5 2007



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**EXHIBIT J**



NYC Department of Buildings  
280 Broadway, New York, NY 10007

Patricia J. Lancaster, FAIA, Commissioner

www.protectwest70.org

**Mona Sehgal**  
General Counsel  
212.566.3353  
212.566.3843 fax  
monas@buildings.nyc.gov

February 7, 2007

David Rosenberg  
Marcus Rosenberg & Diamond LLP  
488 Madison Avenue  
New York, New York 10022

Re: "Sensitive" Records

Dear Madam/Sir:

This responds to your request for information governed by the Freedom of Information Law (FOIL).

- All public records maintained by the Department of Buildings (DOB) are routinely made available for public inspection at the office / division of the New York City Department of Buildings at which said records are maintained. Please contact the <ENTER> to determine the hours at which the records you have requested are available. Any further questions regarding your request should be directed to the Records Control Officer for the respective office/division of this Department. **The records will not be available at the time you call.**
- The documents you requested are available for inspection at the Municipal Library located at 31 Chambers Street, Suite 112, New York, NY 10007 (212) 788-8590.
- The information you seek is not within the jurisdiction of DOB. Please direct your request to
- A search of DOB files has revealed no such documents.
- Your request is denied under §87(2) of the Public Officer's Law because the documents requested are
- ✓ **Other: We are still working on your request and I will notify you within 10 business days from the date of this letter regarding the status of your request.**

- You have the right to appeal this determination by writing to the Deputy General Counsel FOIL Appeals Officer, 280 Broadway, 7th Floor, New York, NY 10007, within 30 days of this letter.

Sincerely,

  
Angela Omidge  
Records Access Officer

Manhattan Borough Office  
280 Broadway, 3<sup>rd</sup> Fl.  
(212) 566-0248

Brooklyn Borough Office  
210 Joralemon Street  
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280 Broadway, 4<sup>th</sup> Fl.  
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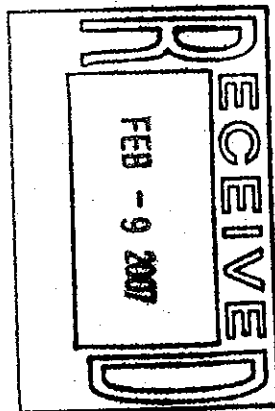
Boiler Division  
280 Broadway, 4<sup>th</sup> Fl.  
(212) 566-4872

Cranes and Derricks  
280 Broadway, 5<sup>th</sup> Fl.  
(212) 566-4698

BEST Squad  
1 Centre Street  
(212) 669-8132

Enforcement Division  
280 Broadway, 5<sup>th</sup> Fl.  
(212) 566-4847

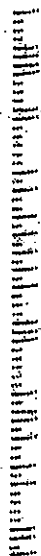
The City of New York  
Department of Buildings  
280 Broadway  
New York, NY 10007-1801



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**EXHIBIT K**



**MARCUS ROSENBERG & DIAMOND LLP**

**488 MADISON AVENUE  
NEW YORK, NEW YORK 10022**

**Telephone (212) 755-7500  
Telefax (212) 755-8713**

February 15, 2007

Mona Sehgal, Esq.  
General Counsel  
New York City Department of  
Buildings  
280 Broadway  
New York, New York 10007

Re: Shearith Israel  
6-10 West 70th Street  
New York, New York 10023  
Block 1122, Lot 37  
DOB BIN No. 1028510  
Your Reference No. 2324

Dear Ms. Sehgal:

By letter dated January 9, 2007, I requested copies of, or an appointment to inspect and photocopy the originals of, the following documents pursuant to the Freedom of Information Law ("FOIL"), Article 6 of the Public Officers Law:

- Documents describing all properties within the City of New York, identified by street address, block and lot, and all other matters which the Department of Buildings ("DOB") has treated, characterized or classified or is treating, characterizing or classifying as "sensitive";
- Documents evidencing the standards, if any, pursuant to which the "sensitive" classification was established and pursuant to which it has been applied and is being applied;
- Documents identifying the person or persons or titles of office who have made and who are making the determination as to which DOB records are "sensitive";
- Documents pursuant to which the procedure to treat records as "sensitive" was adopted or established and all communications with respect thereto, excepting only those which may be subject to

Mona Sehgal, Esq.

Page 2

February 15, 2007

attorney-client or other privilege or exempt from FOIL disclosure by statute and, if any such privilege or exemption which is claimed, specifically identifying the privilege or exemption is claimed with respect to each such record as to which DOB refuses to provide access.

In what appears to be a form letter dated February 1, 2007, Department of Buildings Records Access Officer, Angela Orridge, responded with a "check" before the following paragraph:

Other: I am still working on your FOIL request and will notify you within 10 business [sic] of the date of this letter regarding the status of your request.

I then received a similar form letter from Ms. Orridge, dated February 7, 2007, which stated, in relevant part:

Other: We are still working on your request and I will notify you within 10 business days from the date of this letter regarding the status of your request.

As you are undoubtedly aware, Title 43, Chapter 1, Section 1-05 of the Rules of the City of New York states, in relevant part:

(d) If, because of unusual circumstances, an agency is unable to determine within five business days whether to grant, deny or otherwise respond to a request for inspection and copying, the records access officer shall, within such five day period, acknowledge receipt of the request in writing to the requesting party, stating the approximate date, not to exceed ten business days from the date of the acknowledgement, by which a determination with respect to the request will be made. If the agency does not make a determination with respect to the request within ten business days from the date of such acknowledgment, the request may be deemed denied and an appeal may be taken to the person or body designated in the agency to hear appeals.

Since no determination has been made within ten business days from the date the acknowledgment of receipt of my request should have been made (*i.e.*,

Mona Sehgal, Esq.

Page 3

February 15, 2007

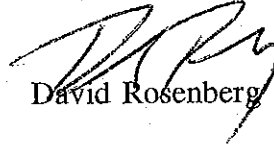
January 16, 2007) or, within ten business days from the date that the acknowledgment actually was dated (*i.e.*, February 1, 2007), my request is deemed to be denied.

I hereby appeal the denial of my request.

Given that the documents I requested do not fall within any of the statutory exemptions of Section 87(2) of the Public Officers Law and, that DOB has not provided a basis for denying access to these records, I request that immediate access to the requested documents be provided by DOB.

Thank you for your anticipated cooperation.

Very truly yours,



David Rosenberg

DR/pab

cc: Committee on Open Government  
Landmark West!