

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

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TZVI WALDMAN,

Petitioner,

Index No.

VERIFIED PETITION

-against-

COUNTY OF ROCKLAND

Respondent(s),

**For a Judgment Pursuant to Article 78 of the Civil
Practice Law and Rules**

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TO THE ABOVE-NAMED RESPONDENT(S):

Petitioner, TZVI WALDMAN, by and through his attorneys, GUERCIO & GUERCIO, LLP, as and for her Verified Petition alleges as follows:

PRELIMINARY STATEMENT

1. That, this Article 78 proceeding pursuant to the Freedom of Information Law (“FOIL”), Article 6 of the Public Officers Law, seeks to vindicate the rights of Petitioner, TZVI WALDMAN (“Petitioner”), and of the public to access records regarding Respondents COUNTY OF ROCKLAND (collectively “Respondent”).

2. That, Respondent has refused to produce public records in response to a FOIL request by Petitioner, which sought the copy of “all communications from June 16, 2022, to the present between the Rockland County Clerk’s office and the County Sheriff’s Department, any NYS Government Offices or Departments, and Judges Russo, Schwarts, and Thorsen regarding issuance of pistol permits and the removal of license restrictions.”

3. That, having exhausted its administrative remedies, Petitioner now asks the Court

to order the production of requested documents within 30 days of this Court's order, award Petitioner its costs and attorney's fees in this proceeding, and granting such other and further relief as this Court deems just and proper.

PARTIES/VENUE

3. That, Petitioner, TZVI WALDMAN, is an individual duly located in the County of Rockland, State of New York.

4. That, Respondent County of Rockland is a municipal agency organized under the laws of the State of New York with its principal place of business in Rockland County, and is otherwise considered an agency under FOIL.

FACTS

5. That, on July 15, 2022, Petitioner made a FOIL request on Respondent seeking "all communications from June 16, 2022 to the present between the Rockland County Clerk's office and the County Sheriff's Department, any NYS Government Offices or Departments, and Judges Russo, Schwarts, and Thorsen regarding issuance of pistol permits and the removal of license restrictions" (Exhibit "A" – Affidavit of Petitioner – Exhibit "1").

6. By July 22, 2022, representing five business days from receipt of the FOIL request, Respondent failed to respond to Petitioner's FOIL request.

7. On August 11, 2022, Respondent formally denied to the FOIL request (Exhibit "2").

8. As such, Petitioner appealed the denial of his FOIL request on August 16, 2022 (Exhibit "3").

9. That, on August 29, 2022, Respondent denied Petitioner's FOIL appeal citing that "no records responsive to your FOIL request were found" (Exhibit "4"). No other reason

for the denial was provided.

10. That, Petitioner has located a responsive record that directly contradicts Respondent's claim that no responsive records exist (Exhibit "5").

11. That, the date of this Petition is within 120 days from the date of Respondent's failure to timely provide a proper FOIL response to Petitioner's appeal and within 120 days from the date of Respondent's formal denial for the Subject Matter Lists.

12. The legal arguments contained in Petitioner's Memorandum of Law dated October 17, 2022, are incorporated herein by reference.

AS AND FOR THE FIRST CAUSE OF ACTION

13. Petitioner repeats, reiterates, and realleges each and every allegation set forth in the proceeding paragraphs of this Verified Petition with the same force and effect as if same were more fully set forth at length herein.

14. Respondent has engaged in a pattern and practice of failing to comply with its obligations under New York Public Officers Law section 84 *et seq.*, Section 1401.5 of the Rules and Regulations of the State of New York, and Article 6-a of the Personal Privacy Protection Law by improperly denying requests and ignoring appeals, ignoring statutory deadlines, and ultimately failing to disclose to Petitioner the requested documents to which it is entitled.

15. To date, Respondent has not produced any of the requested records sought under Exhibits "1".

16. Respondent has improperly denied the request for records found in Exhibit "1".

17. Respondent has improperly denied the FOIL appeal found in Exhibit "3".

18. Respondent has failed to properly comply with the statutory notice requirements

in its responses.

19. Petitioner has exhausted its administrative remedies when it appealed Respondent's denials and Respondent denied the appeal.

WHEREFORE, Petitioner prays for an order:

1. Compelling Respondent to perform the duties required by New York Public Officers Law section 84 *et seq* by producing the records requested in Petitioner's FOIL request within 30 days of this Court's order;
2. Awarding Petitioner its costs and attorney's fees in this proceeding, both in that Respondent had no reasonable basis to deny the FOIL requests and that it failed to timely respond;
3. Granting such other and further relief as this Court deems just and proper.

Dated: Farmingdale, New York
October 17, 2022

GUERCIO & GUERCIO, LLP
ATTORNEYS FOR PETITIONER
77 Conklin Street
Farmingdale, New York 11735
(516) 694-3000

By: _____


ANTHONY J. FASANO

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MORRIS
CO-COUNSEL FOR PETITIONER
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Melville, New York 11747

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

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TZVI WALDMAN,

Petitioner,

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VERIFICATION

-against-

COUNTY OF ROCKLAND

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TZVI WALDMAN, being duly sworn, deposes and says:

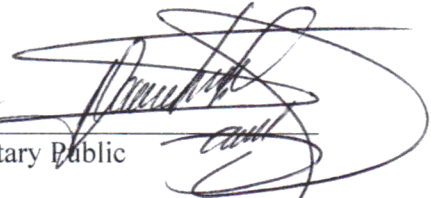
I am the Petitioner in the above-titled action. I have read the foregoing Verified Petition and know the contents thereof. The same are true to my knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters I believe them to be true.



TZVI WALDMAN

Sworn to before me this

21st day of OCTOBER, 2022


Notary Public

JANETH M. CABRERA
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01CA6308495
Qualified in Rockland County
Commission Expires Jul 26, 2026