

# EXHIBIT 5



February 29, 2024

Andrew J. Carboy  
1 Liberty Plaza 23 Flr  
New York NY 10006

Re: Freedom of Information Law (FOIL) Appeal

Dear Mr. Carboy:

I am writing in response to your February 13, 2024 appeal (as supplemented on February 28, 2024) regarding your FOIL request #2023-826-03980.

*Background*

You submitted a request pursuant to FOIL, dated September 8, 2023, for records related to the response of the City of New York to the collapse of the World Trade Center towers on September 11, 2001. This request was assigned FOIL # 2023-826-03980.

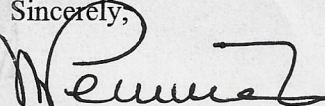
DEP denied your appeal on January 31, 2024, on the grounds that DEP does not possess any responsive records. In your appeal dated February 13, 2024, you maintain that (1) DEP's denial did not include a certification that a diligent search was performed for the requested records, and (2) that the "public record demonstrates that DEP maintains the requested materials".

*Determination*

In response to your appeal, I hereby certify that a diligent search was performed in DEP's records in response to your FOIL request, and no responsive records were found.

In light of the above, your appeal is denied.

This letter is DEP's final determination with respect to your appeal. You have the right to seek review of this determination pursuant to Article 78 of the New York Civil Practice Law and Rules, and section 89(4)(b) of FOIL.

Sincerely,  


Russell Pecunies  
FOIL Appeals Officer

cc: D Dellafiora  
M Ali  
COOG

Rohit T. Aggarwala  
Commissioner

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