

**Law-Gisiko v New York City Hous. Auth.**

2025 NY Slip Op 34482(U)

November 24, 2025

Supreme Court, New York County

Docket Number: Index No. 157931/2025

Judge: David B. Cohen

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This opinion is uncorrected and not selected for official publication.

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

**PRESENT: HON. DAVID B. COHEN PART 58**

*Justice*

-----X

LAYLA LAW-GISIKO,

Plaintiff,

- v -

NEW YORK CITY HOUSING AUTHORITY,

Defendant.

-----X

**INDEX NO.** 157931/2025

**MOTION DATE** 06/20/2025

**MOTION SEQ. NO.** 001

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, 40, 41, 42, 43, 44, 45 were read on this motion to/for JUDGMENT - DECLARATORY.

Petitioner brings this special proceeding pursuant to CPLR Article 78 to compel respondent to comply with its obligations under New York’s Freedom of Information Law (FOIL). Respondent answers and opposes.

**II. CONTENTIONS**

It is undisputed that respondent is in the midst of redeveloping certain public housing complexes, including those at issue here, the Fulton and Elliott-Chelsea complexes. Petitioner sought the disclosure through FOIL of three responses to Requests for Proposals (RFPs) related to this redevelopment. In response, respondent provided the three RFPs, but partially redacted two of them, one from Elliott Fulton LLC, a partnership consisting of Essence Development, LLC, The Related Companies, LP, Hudson Yards Construction II LLC, and Related Management Company (Elliott), the other from Westside Preservation Partners (Westside), mainly as to financial data contained in them.

Petitioner contends that respondent’s redactions were inconsistent and arbitrary and capricious, as it did not redact the third RFP at all, thereby permitting the full disclosure of that

entity's financial data. Moreover, respondent also disclosed the unredacted underwriting formula that it used to evaluate the RFPs. Petitioner thus argues that respondent cannot establish that the redactions in the two RFPs were proper, and that it did not articulate any statutory exemptions that would prohibit the release of the unredacted RFPs.

In its answer, respondent contends that the redactions were necessary pursuant to Public Officers Law 87(2)(b) and (d) as the redacted information constituted an invasion of personal privacy and/or trade secrets and competitive information. Respondent observes that it did not waive a right to assert the propriety of the redactions even though it accidentally provided one unredacted RFP in full, and it is not estopped from asserting that exemptions prohibit the unredacted release of the other two RFPs.

At oral argument on the motion held on July 29, 2025, petitioner limited her request to records allegedly exempt based on the trade secrets exemption, and specifically, the responses to the Exhibit C underwriting template, and respondent was directed to provide its response to petitioner's FOIL request for an in camera review; it provided the documents on August 8, 2025.

## II. ANALYSIS

FOIL imposes a broad duty of disclosure on government agencies (Public Officers Law § 84; *Matter of Fink v Lefkowitz*, 47 NY2d 567 [1979]). Its purpose is to permit access to governmental operations, and “judicious use of the provisions of [FOIL] can be a remarkably effective device in exposing waste, negligence and abuses on the part of government” (*id.* at 571).

Notwithstanding the general policy favoring disclosure, specific exemptions are set forth in Public Officers Law § 87(2). The exemptions are narrowly construed, with the burden resting on the agency to demonstrate that the requested material qualifies for exemption (Public Officers

Law § 89[4][b]; *Mulgrew v Bd. of Educ. of City School Dist. of City of New York*, 87 AD3d 506 [1st Dept 2011], *lv denied* 18 NY3d 806 [2012]).

To sustain that burden, the agency must “articulate particularized and specific justification [for the exemption] and, if necessary, submit the requested materials to the court for an *in camera* inspection” (*Matter of Fink*, 47 NY2d at 571). Thus, as “blanket exemptions for particular types of documents are inimical to FOIL's policy of open government,” the court should conduct an *in camera* inspection if it is unable to determine whether withheld materials are entirely exempt (*Matter of Gould v New York City Police Dept.*, 89 NY2d 267 [1996]).

First, respondent’s inadvertent disclosure of one unredacted RFP does not constitute a waiver of its ability to assert the propriety of redactions for the other RFPs (*Matter of Tuckahoe Common School Dist. v Town of Southampton*, 179 AD3d 929 [2d Dept 2020]).

The exemption for trade secrets, Public Officers Law § 87(2)(d), provides that records or portions thereof need not be disclosed if they contain:

... 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 to the competitive position of the subject enterprise . . .

This purpose of the exemption is to “protects businesses from the deleterious consequences of disclosing confidential commercial information, so as to further the State's economic development efforts and attract business to New York” (*Matter of Encore College Bookstores, Inc. v Auxiliary Serv. Corp. of State Univ. of N.Y. at Farmingdale*, 87 NY2d 410, 420 [1995]). The court must consider whether the information sought is valuable to the competing business, as well as the resulting damage to the submitting business if information is released, and if the disclosure is the only means for the competitor to gain the requested information, “the inquiry ends here” (*id.* at 420).

Here, in relying on the trade secrets exemption, respondent contends in its answer that the “financial information at issue, including the details on how the development teams proposed to execute the financing, contains details about the sources of the funds that the respective teams intended to utilize and would potentially allow competitors to undercut those proposals for responses to RFP’s on other projects” (NYSCEF 40).

However, respondent provides no further details or specifics about the many redactions that it made to the RFPs, and a review of them does not reflect or provide any clarity as to how or why they would constitute trade secrets or information that could be harmful if disclosed. As to the Elliott RFP, the redacted Exhibit C, the Underwriting Template, reveals inconsistent and seemingly arbitrary redactions. For example, respondent redacted the total number of people employed as “super and maintenance staff,” but immediately below the table containing that figure is a “payroll breakdown” that listed the staff by title and amount, thereby allowing the calculation of their total number (Elliott RFP, pp. 110-111). In the same chart, which detailed the houses’ maintenance and operating expenses, respondent did not redact the amounts spent on legal, accounting, management fees, security, fire/liability insurance, or benchmarking, but did redact the amounts spent on social services, tenant participation activities, and broadband (*id.*). In another example, in a table setting forth project cash flows, there are identical categories of data regarding the cash flow of sites one and two. Respondent redacted the percentage increases for site one’s cash flow but did not redact them for site two’s cash flow (*id.*, pp. 128). Finally, in a table containing construction interest, respondent redacted the number of months for certain construction terms, but did not redact the number of years nor the estimated start and end date, both of which allowed the calculation of the undisclosed number of months (*id.*, pp. 144). The same issues exist in Westside’s redacted RFP.

Indeed, the broader issue with respondent's redactions is that it is even unclear whether the information redacted was historical information or data provided by NYCHA as to its operations, or whether it was projected calculations made by the RFP proponent. Moreover, there was no explanation given as to each category or type of information redacted by respondent, and thus no detailed showing that the specific redactions it made were necessary to protect the trade secrets or competitive advantage of the RFP entities or itself.

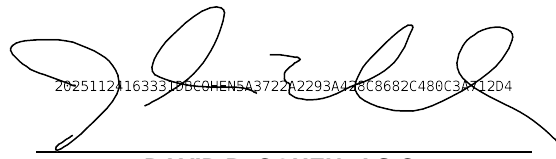
Respondent thus fails to meet its burden of showing that the trade secrets exemption permitted the redactions that it made here (*see Matter of Markowitz v Serio*, 11 NY3d 43, 51 [2008] ["the party seeking exemption must present specific, persuasive evidence that disclosure will cause it to suffer a competitive injury; it cannot merely rest on a speculative conclusion that disclosure might potentially cause harm"]; *Matter of Standardbred Owners Assn., Inc. v New York State Gaming Commission*, 237 AD3d 1354, 1356 [3d Dept 2025] [respondent failed to establish exemption applied as allegations regarding trade secrets and competitive disadvantage were "conclusory and unspecific, and the record is otherwise devoid of any evidence that would illuminate whether such evidence fell within the definition of a trade secret, or demonstrate 'actual competition and the likelihood of substantial competitive injury' stemming from the redacted information"] [citations omitted]; *Matter of Verizon New York, Inc. v Bradbury*, 40 AD3d 1113 [2d Dept 2007] [respondent failed to demonstrate specific harm it would suffer if documents were disclosed]).

Finally, as petitioner demonstrates that respondent had no reasonable basis for denying full access to the RFPs at issue, she thus substantially prevails here and is entitled to attorney fees and costs pursuant to Public Officers Law 89(4)(c).

Accordingly, it is hereby

ORDERED and ADJUDGED that the petition is granted, and respondent is directed to provide petitioner with an unredacted copy of the RFPs from Elliott and Westside within 10 days of service on it of a copy of this order with notice of entry; and it is further

ORDERED that petitioner submit an affirmation as to her reasonable attorney fees and costs within 30 days of the date of this order, to which respondent may object and respond within 10 days of receipt of petitioner’s affirmation.

  
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11/24/2025  
DATE

DAVID B. COHEN, J.S.C.

CHECK ONE:

CASE DISPOSED

GRANTED

DENIED

APPLICATION:

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION

GRANTED IN PART

OTHER

SUBMIT ORDER

FIDUCIARY APPOINTMENT

REFERENCE

CHECK IF APPROPRIATE: