

131 Onderdonk Avenue
Albany, NY 12208

February 3, 2015

Custodian of Records
City of Albany
City Hall Room 202
24 Eagle Street
Albany, NY 12207

Dear Custodian of Records,

Under the New York Freedom of Information Law, N.Y. Pub. Off. Law sec. 84 et seq., I am requesting an opportunity to obtain or inspect copies of public records held by the City of Albany that relate to the plans to develop the "independent senior garden apartments" under construction at 241 South Allen Street, Planning Department Case #5-14, 912.

State law restricts the use of the former South Allen Street Playground, now known as 241 South Allen Street, to "the development of property for independent senior garden apartments."

According to Section 1 of the park alienation statute (Senate bill 2342-A, Assembly bill 4717-A, passed 7/12/2013):

"Subject to the provisions of this act, the city of Albany, located in the county of Albany, is hereby authorized, acting by and through its common council and upon such terms and conditions as determined by such common council, to discontinue the use as park lands the lands more particularly described in section two of this act and to transfer such lands, at fair market value, which are no longer needed for park purposes for use in connection with the development of property for independent senior garden apartments."

This request includes, but is not limited to, all public minutes, reports, studies, descriptions, correspondence, notes, discussions, applications, approvals, plans, drawings, architectural renderings, measurements, the list of Codes to be enforced, etc., relative to the City's compliance with Section I of the above statute with regards to the "independent senior garden apartments," held by the City of Albany and any of its subdivisions, offices, boards, departments, etc.

Of special interest are the relevant public records held by the Mayor's Office, the Albany Common Council, the Department of Planning, the Department of General Services, the Department of Buildings and Regulatory Compliance, and the Office of the Corporation Council.

Special focus should be placed on, but not limited to, these public records:

1. Documents that describe the City of Albany's legal compliance with Section 1 of Senate bill 2342-A and Assembly bill 4717-A with regards to "independent senior garden apartments."
2. Applications or narrative descriptions that describe the nature of the apartments under construction as "independent senior" housing
3. The list of City, county and/or state building codes and regulations that will enforce compliance with the statutory requirement to construct "independent senior garden apartments."
4. Architectural drawings, including measurements, that illustrate the compliance with applicable senior housing codes
5. Documentation that confirms the restriction of the residents of these apartments to senior citizens based on their age, e.g., aged 55 and older

If any of these records are available in digital format, I would be pleased to receive them via e-mail at Lcohen100@gmail.com. If some of the requested records cannot be e-mailed to me, please inform me of the cost of reproducing the remainder of the records requested or the arrangements that can be made for me to view them. You may reach me at 482-0874, or by e-mail.

The New York Freedom of Information Law requires a response time of five business days. If access to the records I am requesting will take longer than this amount of time, please contact me within this time frame with information about when I might expect copies or when I can inspect the requested records.

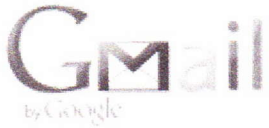
If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

Thank you for considering my request.

Sincerely,

Laura Cohen

131 Onderdonk Avenue, Albany NY 12208
518-482-0874
Lcohen100@gmail.com



Laura Cohen <lcohen100@gmail.com>

Albany, NY Service Request Updated :: W003415-020515

Albany FOIL Center <AlbanyNY@mycusthelp.net>

Wed, Mar 18, 2015 at 10:34 AM

To: lcohen100@gmail.com

--- Please respond above this line ---

3/18/2015

Laura Cohen
131 Onderdonk Avenue
Albany, NY 12208

FOIL NO: W003415-020515

Dear Laura Cohen,

Your request is hereby accepted.

Fees:

Total Amount Charged: \$0.00

Your request has hereby been accepted, records are available for inspection in the City Clerk's Office. If after inspection you have identified records that you would like to obtain copies of their records will be copied and made available to you for a fee of \$0.25 per page.

Sincerely:

Mr. Nala R. Woodard
Records Access Officer



Laura Cohen <lcohen100@gmail.com>

Albany, NY Service Request Updated :: W003415-020515

Laura Cohen <lcohen100@gmail.com>

Fri, Mar 20, 2015 at 2:41 PM

To: Albany FOIL Center <AlbanyNY@mycusthelp.net>

Cc: Mayor Kathy Sheehan <mayor@albanyny.gov>, nwoodard@albanyny.gov

Dear Nala Woodard,

Thank you for accepting my FOIL request.

I reviewed the records today, and found that the City's response to my request was not legal. My FOIL request focused solely on the City's compliance with the park alienation statutes (Senate bill 2342-A, Assembly bill 4717-A), which restrict the use of the alienated parkland to "the development of property for independent senior garden apartments."

I reviewed all the records - a high volume of records from several City offices - and none of them indicated that "independent senior garden apartments" will be built.

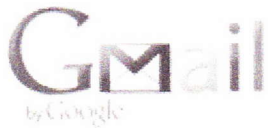
Please send me a legal response to my FOIL request that states that the City denies my request because no such records exist.

Thank you.

Laura Cohen

cc: Mayor Kathy Sheehan

[Quoted text hidden]



Laura Cohen <lcohen100@gmail.com>

Albany, NY Service Request Updated :: W003415-020515

Nala Woodard <nwoodard@albanyny.gov>

Fri, Mar 27, 2015 at 10:42 AM

To: Laura Cohen <lcohen100@gmail.com>

March 27, 2015

Dear Ms. Laura Cohen,

This letter is in further response to your FOIL request received on February 5, 2015 as well as your correspondence received on March 20, 2015.

In response to your FOIL request, the City provided you with an opportunity to review and/or obtain copies of records possessed or maintained by the City related to the construction project at 241 South Allen Street. These records included, but were not limited to, files of the Department of Development and Planning as well as the Department of Buildings and Regulatory Compliance. I have been informed that the aforementioned records included copies of all maps, diagrams, drawings, site plans, as well as all decisions rendered, approvals granted, and/or permits issued for the proposed development of 241 South Allen Street.

With respect to your correspondence received on March 20, 2015, I note that the Public Officers Law does not require an agency to supply information in response to a question, nor does it require an agency to create a record that does not currently exist. Specifically, Public Officers Law §89(3) states that: "Nothing in this article shall be construed to require any entity to prepare any record not possessed or maintained by such entity." To the extent that your FOIL request or subsequent inquiry seek a response to a question, or require the creation of a record not currently possessed or maintained, the City is unable to respond to such a request. Notwithstanding these provisions of the Public Officers Law, in response to your March 20, 2015 correspondence, I refer you to the City of Albany's Zoning Ordinance, Chapter 375 of the Albany City Code which outlines the permitted use(s) of a property within a particular zoning district.

You may appeal any part of this letter that constitutes a denial by writing to the Appeals Officer within 30 days of this denial. Please direct any written appeal to the attention of the Honorable Andrew Wood, Appeals Officer, City Hall – Room 202, Albany, New York 12207. You must cite the appropriate passage of law on which your appeal is based.

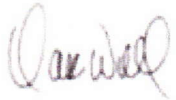
If you have any additional questions, please do not hesitate to contact me.

Sincerely,

Nala R. Woodard

Records Access Officer

Mr. Nala R. Woodard



City Clerk, Clerk to the Common Council &

Records Access Officer

City Hall

24 Eagle Street - Room 202

Albany, NY 12207

518- 434-5090 (phone)

518-434-5081 (fax)

nwoodard@albanyny.gov

From: Laura Cohen [mailto:lcohen100@gmail.com]

Sent: Friday, March 20, 2015 2:42 PM

To: Albany FOIL Center

Cc: Mayor Sheehan; Nala Woodard

Subject: Re: Albany, NY Service Request Updated :: W003415-020515

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