



NEW YORK STATE COMMISSION ON
LEGISLATIVE, JUDICIAL, & EXECUTIVE COMPENSATION

COMMISSIONERS

EUGENE M. FAHEY, CHAIR
HELENE E. BLANK
THERESA L. EGAN
R. NADINE FONTAINE
VICTOR KOVNER
ROBERT L. MEGNA
JEREMY S. WEINSTEIN

December 26, 2023

Director Elena Sassower
Center for Judicial Accountability, Inc.
elena@judgewatch.org

Dear Ms. Sassower,

This is in response to your Freedom of Information Law (“FOIL”) appeal, dated December 14, 2023, received via e-mail, concerning your November 13, 2023 request, described herein.

1. Background

On November 13, 2023 you submitted a FOIL request seeking “ALL referred-to and discussed written materials” at the November 13, 2023 meeting of the Commission.

On November 15, 2023, the Records Access Officer (“RAO”) for the Commission responded to your FOIL request, stating that the referred-to and discussed written materials are exempt from disclosure because they constitute inter-agency or intra-agency materials which are not statistical or factual tabulations of data, instructions to staff that affect the public, final agency policy or determinations, or external audits.

By email, dated December 14, 2023, you appealed the RAO’s November 15 determination. You stated that you spoke to a staff member at the Committee on Open Government. You stated that you were specifically appealing the decision not to provide the draft report that the Commission discussed at the November 13, 2023 meeting.



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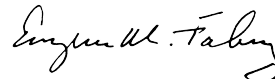
2. Determination on Appeal

In my review of the matter, I deny your appeal and uphold the RAO's determination. The right to appeal a determination of a FOIL request is limited to challenging an agency's denial of a request or its withholding of documents (or redacting parts thereof) deemed exempt from disclosure pursuant to statute. *See* POL § 89(4)(a). The RAO correctly held that the draft report was exempt from disclosure under FOIL because it is an intra-agency document and it was not a final agency policy or determination.

As a courtesy, the Commission is willing to provide the draft report discussed at the November 13, 2023 meeting. We reserve all rights under the Public Officers Law.

Your appeal of the Commission's November 15, 2023, determination and response to your FOIL request is denied in accordance with the reasoning herein.

Very truly yours,



Hon. Eugene M. Fahey (Ret.)
Chair, Commission on Legislative,
Judicial and Executive Compensation

cc: Committee on Open Government

Attachment