City of Ithaca

OFFICE OF THE CITY MANAGER

Dominick Recckio City Manager
www.cityofithacany.gov

October 16, 2026

Zero Waste Ithaca, Inc.
P. O. Box 136
Ithaca, NY 14850-9997

APPEAL
City FOIL Record No. 26-865

Dear Zero Waste Ithaca, Inc.,

I am in receipt of your letter dated September 30, 2026, and received in the mail by my office on October 5, 2026. I am designated to respond to appeals in connection with the Freedom of Information Law ("FOIL").

The Appeal
Your September 30 appeal objects to the City's correspondence around your FOIL request for the following (pasted from the original request):

> On October 11, 2025, a Freedom of Information Law request was submitted concerning the synthetic turf installed for Cornell University's Meinig Fieldhouse project. The request included records concerning PFAS testing, the identity of the selected turf products, and Cornell's compliance with the conditions imposed by the City of Ithaca Planning and Development Board.
>
> Condition vii of the Planning Board's September 26, 2024, site-plan approval required Cornell to "[c]onduct third party testing of the artificial turf carpet for the presence of the PFAS before it leaves the manufacturer," with the stated goal that the turf "will not contain or be treated with PFAS," and to "submit results to Planning staff."
>
> 1. The complete third-party PFAS testing report for the artificial turf carpet;
> 2. The testing method or protocol, including the analytes or fluorine measurements examined, detection and reporting limits, and the standard used to determine compliance;
> 3. The complete testing results, including laboratory data and any accompanying interpretation;

4. Sample-identification or chain-of-custody records sufficient to establish that the material tested was the artificial turf carpet selected for and installed at the Meinig Fieldhouse project;
5. The email, letter, portal submission, cover sheet, or other transmittal by which the PFAS testing results were submitted to Planning staff; and
6. Any written record showing that Planning staff reviewed the testing submission and determined that the PFAS testing condition had been satisfied.

In your appeal, you directed the City to respond to the FOIL inquiry as follows:

> Accordingly, pursuant to Public Officers Law § 89(3)(a), please do one of the following for each numbered category:
> 1. Provide the responsive record if the City possesses it;
> 2. Certify in writing that the City does not possess the requested record; or
> 3. Certify in writing that the City is the custodian of the requested record but that the record cannot be found after a diligent search.

The City's Response

At the outset, in your appeal you objected to the City failing to respond within the allotted time for your original August 28, 2026, request. I note that the City originally projected that it could review and produce the requested records to you within twenty (20) business days, or by September 28, 2026. Thereafter, in accordance with the law, it informed you it would require approximately fourteen (14) additional business days, extending this date to October 19, 2026. You have interpreted this modest extension as a constructive denial.

This interpretation is inconsistent with the law. As with all FOIL requests, in response to your initial FOIL request, City staff diligently reviewed the records the City maintains. Then, potentially responsive records were carefully reviewed to ensure that there was no disclosure of information that should be withheld under the Public Officers Law. In addition to their other duties, City staff analyzing the records have to balance reviewing your request alongside a significant uptick in volume of FOIL inquiries: The City surpassed last year's total FOIL requests received, and two months still remain in the calendar year. Compounding this challenge is what was shared with you on September 28, 2026: The City Attorney's Office is experiencing staffing shortages. While its original projection was realistic, the City responded to you in a timely fashion to share its updated timeline as it became evident. I have been advised that, as recently as April 2026, "Constructive denial does not occur when the agency has been providing periodic updates and has not yet made a final determination," particularly in light of good-faith compliance by the municipality. *Liakas Law, P.C. v Bragg*, 2026 NY Slip Op 31690(U), Sup Ct, NY County, Apr. 17, 2026. The City's efforts abide by this principle. The subsequent timeline was modest and reasonable under the circumstances of the request.

Next, your FOIL appeal references FOIL 2025266198, indicating that because your request asks for similar requests as that request, your request should have been fulfilled faster. As

outlined above, each request is processed individually on its own merits, and must be examined based on the records that are maintained as of the date of the request. FOIL 2025266298 is dated in late 2025, unlike your request. Therefore, the City began its entire process again, soliciting the relevant recordkeepers for materials and then individually reviewing them. Indeed, some files produced to you were dated after FOIL 2025266198.

Next, you have requested responses to your letter. Although it is well established that FOIL does not require a municipality to provide answers to questions—but rather, access to records—please see below in the abundance of transparency.

Category of Records	**Response**
The complete third-party PFAS testing report for the artificial turf carpet	Responsive records maintained by the City have been provided.
The testing method or protocol, including the analytes or fluorine measurements examined, detection and reporting limits, and the standard used to determine compliance	Responsive records maintained by the City have been provided.
The complete testing results, including laboratory data and any accompanying interpretation	Responsive records maintained by the City have been provided.
Sample-identification or chain-of-custody records sufficient to establish that the material tested was the artificial turf carpet selected for and installed at the Meinig Fieldhouse project	Responsive records maintained by the City have been provided.
The email, letter, portal submission, cover sheet, or other transmittal by which the PFAS testing results were submitted to Planning staff	Responsive records maintained by the City have been provided.
Any written record showing that Planning staff reviewed the testing submission and determined that the PFAS testing condition had been satisfied.	The City maintains no responsive records.

Finally, it is my understanding that all response records have been provided to you as of the date of this letter, including but not limited to records that are publicly available online at https://www.cityofithacany.gov/DocumentCenter/Index/1647.

Based on my review of your FOIL request, the City's response, your appeal, and the responsive records separately provided to you, I find that your appeal of the constructive denial of your request is moot.

As required by § 89(4)(a) of the New York Public Officers Law and § 256-6 of the City of Ithaca Code, a copy of your appeal, as well as a copy of this decision, are being submitted concurrently to the New York State Committee on Open Government.

Please be advised that if you wish to challenge this decision, you have the right to commence proceedings pursuant to Article 78 of the New York Civil Practice Law and Rules in State Supreme Court. The City reserves all rights and defenses in connection with any such proceeding.

Sincerely,



Dominick Recckio
City Manager

Cc: Committee on Open Government