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Administrative Appeal FOIL-2018-860-00156, Kings County (Brooklyn) "Old Town" Records microfilm rolls.

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Mon, Aug 6, 2018 at 6:48 PM

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I am the attorney for Reclaim the Records. Please consider this the administrative appeal for the FOIL request titled: **FOIL-2018-860-00156**, Kings County (Brooklyn) "Old Town" Records microfilm rolls.

As you know, Under FOIL, “[a]n agency’s records ‘are presumptively open to public inspection, without regard to need or purpose of the applicant.’” *Beechwood Care Ctr. v. Signor*, 5 N.Y.3d 435, 440 (2005) (quoting *Matter of Buffalo News v. Buffalo Enter. Dev. Corp.*, 84 N.Y.2d 488, 492 (1994)). “When faced with a FOIL request, an agency must either disclose the record sought, deny the request and claim a specific exemption to disclosure, or certify that it does not possess the requested document and that it could not be located after a diligent search.” *Id.* at 440-41 (citing Public Officers Law § 87(2)). “In the event that access to any record is denied pursuant to [section 87(2)], the agency involved shall have the burden of proving that such record falls within the provisions of such subdivision two.” Public Officers Law § 89(4)(b).

Your denial is without basis in law. The committee on open government (COOG) address this issue specifically.

https://cdn.muckrock.com/outbound_request_attachments/ReclaimTheRecords/58345/Ganz20FOIL20case20-2008-12-201520-20COOG20Advisory20Opinion20issued.pdf

Best regards,

David Rankin

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