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March 13, 2019

**BY U.S. MAIL & EMAIL**

Mike Ramondelli  
Deputy City Clerk  
Yonkers City Clerk's Office  
40 South Broadway, Room 107  
Yonkers, NY 10701

**Re: Freedom of Information Law Request – Index to Yonkers  
Death Records through December 31, 1915**

Dear Mr. Ramondelli:

I write on behalf of Brooke Schreier Ganz and Reclaim the Records to appeal the Yonkers City Clerk's Office's constructive denial of Reclaim the Records' September 6, 2017 Freedom of Information Law ("FOIL") request for the above-referenced information (copy attached as Exhibit A). On October 18, 2017, you advised Ms. Ganz that you would provide a response to her FOIL request in twenty business days (copy attached as Exhibit B). Twenty business days passed, and you did not provide a response. On March 9, 2018, Ms. Ganz emailed you to follow up on her FOIL request (copy attached as Exhibit C). This generated a conversation which resulted in your office agreeing to provide the requested records (see Exhibit C). Several weeks passed and your office did not produce the requested records. Ms. Ganz emailed you again on May 21, 2018 and requested that you advise her why your office had not produced the records they said they would produce (copy attached as Exhibit D). Your office did not respond to Ms. Ganz's May 21, 2018 email. Ms. Ganz has patiently waited for the Yonkers City Clerk's Office to respond to her FOIL request for approximately one-and-a-half

years. Pursuant to 21 NYCRR 1401.5(e), the Yonkers City Clerk's failure to provide a response is a constructive denial of her request and grounds for an appeal.

A basic requirement of FOIL is that "[w]hen faced with a FOIL request, an agency must either disclose the record sought, deny the request and claim a specific exemption to disclose, or certify that it does not possess the requested document and that it could not be located after a diligent search." *Beechwood Restorative Care Ctr. v. Signor*, 5 NY3d 435, 440-441 [2005]. Failure to respond to any portion of a FOIL request is constructive denial. *See* NY Public Officer's §§ 89(3)(a), 89(4)(a); Comm. On Open Gov. FOIL-AO-19224 [2014], available at <http://docs.dos.ny.gov/coog/ftext/2014/f19224.html>.

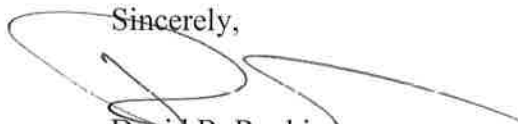
The Yonkers City Clerk has constructively denied Reclaim the Records' September 6, 2017 FOIL request because: it has not disclosed the records sought; it has not written that it has denied the request; it has not claimed specific exemptions to disclosure; and it has not certified that it does not possess the records after a diligent search. *See Beechwood*, 5 NY3d at 440-441. As such, Reclaim the Records appeals the Yonkers County Clerk's constructive denial of its September 6, 2017 FOIL request in its entirety.

Please respond within ten (10) business days of receiving this appeal, stating whether the request is granted or denied (in full or in part). *See* NY Public Officer's Law § 89(4)(a). If the appeal is granted, please state a date certain by which the requested records will be produced. If the appeal is denied, please name the records being withheld and state with particularity the reasons for each record being withheld. Please be advised that FOIL directs that all appeals and the determinations that follow be sent to the Committee on Open Government, Department of State, One Commerce Plaza, 99 Washington Avenue, Albany, New York, 12231.

If you do not reasonably respond to this request in a timely manner, we will seek an award of attorney's fees and other litigation costs reasonably incurred in securing your compliance with the request. *See id.* at § 89(4)(c).

Thank you for your prompt attention to this matter.

Sincerely,



David B. Rankin

Encls.

cc: Vincent E. Spano, Yonkers City Clerk (w/ encls.)  
Brooke Schreier Ganz, Reclaim the Records (w/ encls.)