



Zachary W. Carter
Corporation Counsel of the City of New York
100 Church Street
New York NY, 10007

April 6, 2015

Dear Corporation Counsel Carter,

We write to you in your role as counsel to mayoral agencies to ask you to advise agencies to provide responses to Freedom of Information Law (FOIL) requests for tabular data in a spreadsheet or “machine readable” file format.

Currently, many city agencies respond to FOIL requests by converting machine readable tabular data, like MS Excel spreadsheets, into PDF files, which are not machine readable. This has the practical effect of making these records much more difficult for the public to use. City agencies often produce records that include dozens or hundreds of pages of tabular data. When this data is locked in a PDF format, public interest groups, advocates and others must spend extraordinary time and expense to retrieve information that would take a moment to find if the data was machine readable. This is contrary to the Freedom of Information Law, which seeks to “free” information, not make it difficult for the public to use.

The New York State Committee on Open Government, which oversees and interprets the Freedom of Information Law, explains:

“If an agency has reasonable means to convert accessible records from one electronic format into a different more desirable format, it must do so.” (New York State Committee on Open Government web site, citing N.Y. Pub. Officers Law §§ 87(a) & 89(3)(a))

Our groups were prompted to write this letter both because of our own experience, and because we have received numerous complaints from journalists and public interest advocates who have sought tabular data relevant to a range of issues including housing, land use, transit and civil liberties.

The public has two choices when it receives voluminous amounts of tabular data in a PDF format. The public can spend time and money converting the data into a machine readable format

by manually reentering it into a computer, or converting into a machine readable format using specialized software and code. Or, the public can seek a court order instructing the agency to produce the data in a machine readable format per FOIL case law. Our experience is that the courts always side with the public in these cases, and that they are an unfortunate waste of time and money for both public and agencies.

We want to share a recent example of this problem. In June 2014, Reinvent Albany submitted a FOIL request to the NYC Department of Transportation asking for DOT's FOIL logs in a machine readable format. On October 21, NYC DOT emailed Reinvent Albany two PDF files. Information embedded in the files (metadata) shows the files were converted from a machine-readable Microsoft Excel file into non-machine readable PDF shortly before they were emailed. The PDF files, which contain tables listing approximately 9,000 FOIL requests, cannot be opened by spreadsheet software.

Reinvent Albany asked DOT's FOIL officer to provide the requested spreadsheets in their original – machine readable – format. But she refused citing "DOT policy." The FOIL officer also refused to provide Reinvent Albany with a copy of the DOT policy. Reinvent Albany has filed a FOIL request for a copy of this policy.

Unfortunately, this is a common experience. Fortunately, this is a problem that you can easily solve. We ask that you issue clear, written guidance to agency FOIL officers, ensuring that they provide to the public machine readable tabular data, provided that the record is originally produced in a machine readable format or can be exported into a machine readable format. We appreciate your help in this matter and look forward to working with you and your staff to address this important issue.

Sincerely,

John Kaehny, Executive Director
Reinvent Albany

Gene Russianoff, Senior Attorney
New York Public Interest Research Group

Elizabeth Bird, Project Coordinator
Good Jobs New York

Frank Hebbert, Director
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Dick Dadey, Executive Director
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Susan Lerner, Executive Director
Common Cause New York

CC: Letitia James, New York City Public Advocate