

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

<p>In the matter of JESSE COBURN and OPEN PLANS, INC.,</p> <p style="text-align: right;">Petitioners,</p> <p style="text-align: center;">- against -</p> <p>NEW YORK CITY DEPARTMENT OF INVESTIGATION,</p> <p style="text-align: right;">Respondent,</p> <p>For a Judgment Pursuant to Article 78 of the Civil Practice Law and Rules.</p>
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Index No.

VERIFIED PETITION

ORAL ARGUMENT REQUESTED

Petitioners Jesse Coburn and Open Plans, Inc., the publisher of *Streetsblog NYC* (“Streetsblog”), by and through undersigned counsel, respectfully allege as follows:

PRELIMINARY STATEMENT

1. This Article 78 proceeding challenges the denial of a request under the Freedom of Information Law, N.Y. Pub. Off. Law § 84, et seq. (“FOIL”), submitted by petitioner Jesse Coburn, a journalist, to respondent New York City Department of Investigation (“DOI”).

2. This dispute concerns access to records that shed light on an important public issue: the qualifications and educational background of Ingrid Lewis-Martin, the Chief Advisor to New York City Mayor Eric Adams.

3. New York City employees in certain high-ranking positions, including Ms. Lewis-Martin as the Mayor’s Chief Advisor, are required to complete a Background Investigation Questionnaire administered by DOI.

4. Section 36 of the Questionnaire requires that an applicant submit a resume, and section 32, the “Academic Degrees” section, requires the applicant to “[l]ist all high schools, technical schools, colleges, universities, graduate schools, and professional schools” the applicant attended, along with any degrees earned.

5. There is no publicly available information confirming Ms. Lewis-Martin’s complete educational background or identifying what qualifications she claimed to have when she was under consideration for her current job.

6. To shed light on Ms. Lewis-Martin’s educational background and qualifications, Mr. Coburn filed a narrow FOIL request seeking two specific records: the resume that Ms. Lewis-Martin submitted alongside her Background Investigation Questionnaire, and the “Academic Degrees” section of the Questionnaire.

7. DOI denied Mr. Coburn’s FOIL request and the subsequent appeal, claiming that disclosure would constitute an “unwarranted invasion of personal privacy.”

8. However, the text of FOIL and governing case law make clear that the resume and educational background of a high-ranking public official must be disclosed through FOIL.

9. The qualifications of the City’s top officials are of critical importance to the public, and the officials have no reasonable expectation that their resumes or educational backgrounds will remain confidential.

10. The agency’s denial violates both the text and purpose of FOIL. DOI should be ordered to release these important records.

PARTIES

11. Petitioner Jesse Coburn is *Streetsblog*'s investigative reporter. He works to uncover and report on issues that affect New York City and everyday New Yorkers.¹ Among many other journalism awards he has received, he won the prestigious George Polk Award in 2024 for his investigative series on the black market for temporary license plates. He has also written for *The New York Times*, *Harper's*, and *The Baltimore Sun*, among other publications.

12. Petitioner Open Plans, Inc., a New York not-for-profit corporation, is the publisher of *Streetsblog NYC*.

13. Respondent DOI is a public agency subject to the requirements of the Freedom of Information Law, New York Public Officers Law § 84 et seq. DOI maintains its office at 180 Maiden Lane, New York, NY 10038.

VENUE AND JURISDICTION

14. Mr. Coburn has exhausted his administrative remedies. This court therefore has jurisdiction over this matter pursuant to New York Public Officers Law § 89(4)(b) and CPLR Article 78.

15. Pursuant to CPLR § 506(b) and § 7804(b), this proceeding is commenced in New York County, where DOI's principal offices are located, where its agent made the determinations petitioned against and complained of, and where it failed to perform the duties required of it by law.

STATEMENT OF FACTS

16. Mr. Coburn filed FOIL request number FOIL-2024-032-00017 with DOI on January 16, 2024. A true and correct copy of the request is attached as **Exhibit A**.

¹ See *Jesse Coburn*, *Streetsblog NYC*, <https://nyc.streetsblog.org/author/jessecoburn>.

17. His request sought “two records possessed by DOI: (1) The resume Ms. Lewis-Martin submitted as part of her DOI background investigation. (2) The portion [of] Ms. Lewis-Martin’s completed DOI background investigation questionnaire that appears under the header ‘academic degrees.’” Ex. A.

18. The request further clarified that it did *not* seek “Ms. Lewis-Martin’s entire background investigation questionnaire.” Ex. A.

19. DOI denied the request on February 2, 2024, claiming that the requested records “are exempt from disclosure under FOIL” because “disclosure would constitute an unwarranted invasion of personal privacy.” A true and correct copy of the denial email is attached as **Exhibit B**.

20. Mr. Coburn, through counsel, filed an administrative appeal of DOI’s denial on February 14, 2024. A true and correct copy of the administrative appeal is attached as **Exhibit C**.

21. DOI denied Mr. Coburn’s appeal on February 29, 2024. A true and correct copy of the appeal denial is attached as **Exhibit D**.

22. The appeal denial stated that disclosure of the requested material “would constitute an ‘unwarranted invasion of personal privacy.’ Public Officers Law § 87(2)(b).” Ex. D at 2.

23. The agency relied on a single judicial decision, which addressed a substantively different issue. Ex. D at 2. That decision is not applicable here, as it rested on entirely different facts and failed to even cite controlling case law. The agency ignored the wide range of authority holding that public officials’ resumes and records concerning their educational backgrounds are public documents that must be released under FOIL. *See, e.g.*, Ex. C.

CLAIM FOR RELIEF

(Article 78 Review of Wrongful Denial of FOIL Request)

24. Petitioners hereby reassert and reallege paragraphs 1 through 22 as if fully set forth herein.

25. Petitioners commence this proceeding, which is in the nature of a writ of prohibition and a writ of mandamus, pursuant to CPLR Article 78 and N.Y. Pub. Off. Law § 89(4)(b).

26. Under FOIL, all documents held by government entities like DOI are presumed open for public inspection and copying. Documents may be withheld from public inspection only if expressly permitted by a specific statutory exemption, and such exemptions must be interpreted narrowly to ensure the public has the maximum possible access to government records.

27. Respondent had no reasonable basis for denying access to the requested information.

28. Respondent's actions have caused and continue to cause irreparable harm to the rights guaranteed to Petitioners and to the public at large under FOIL.

29. The information requested by Petitioners is of significant interest and concern to the general public.

30. Petitioners have exhausted their administrative remedies and have obtained none of the withheld information.

31. As a result of the foregoing, Respondent has violated FOIL.

32. Petitioners have no other adequate remedy at law.

33. No prior application for the relief requested herein has been made to the Court.

WHEREFORE, Petitioners respectfully request this Court to grant judgment:

- (a) Directing Respondent to comply with its duty under FOIL and to produce the requested records within twenty (20) days;
- (b) Awarding Petitioners their reasonable attorney's fees and litigation costs fees pursuant to N.Y. Pub. Off. Law § 89(4)(c); and
- (c) Awarding Petitioners such further relief as the Court deems just and proper.

Dated: June 28, 2024

Respectfully submitted,

By: /s/ Michael Linhorst

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*Counsel for Jesse Coburn
and Open Plans, Inc.*

VERIFICATION

STATE OF NEW YORK)
) SS.:
COUNTY OF NEW YORK)

LISA ORMAN, being duly sworn, deposes and says under penalty of perjury:

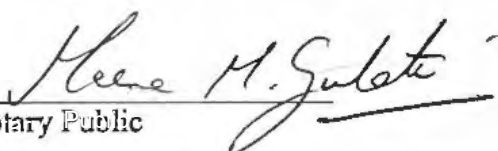
1. In order to gather information relevant to Streetsblog NYC reporting, Jesse Coburn filed the FOIL request at issue in this proceeding.
2. I have read the annexed Verified Petition. Based on my personal knowledge, and on information obtained in the regular course of business from records and from individuals with knowledge, the information contained herein is true to the best of my knowledge, information, and belief.



Lisa Orman

Sworn before me this

28th day of June, 2024


Notary Public

MEENA M. GULATI
Notary Public, State of New York
No. 01GU0011437
Qualified in New York County
Commission Expires July 13, 2027