Exhibit 2
January 8, 2020

VIA EMAIL

Attn: Records Access Officer
(FOIL@esd.ny.gov)
Empire State Development
633 3rd Ave, 37th Floor
New York, NY 10017

Re: Village of Floral Park FOIL Request #2981

Dear Sir or Madam:

We represent the Village of Floral Park ("Village") concerning its Freedom of Information Law ("FOIL") request placed to Empire State Development ("ESD") on August 19, 2019 and write concerning ESD’s unreasonable delay in providing a substantive response to the request. As set forth below, ESD’s failure to provide a substantive response to the FOIL request on or before January 22, 2020 will be considered an unlawful constructive denial of access to the requested records, and the Village will seek appropriate relief to challenge such denial.

On August 19, 2019, this firm submitted a FOIL request to ESD, among other State agencies and departments, via Open FOIL NY. A copy of the August 19, 2019 FOIL request is annexed hereto as Exhibit A. While ESD acknowledged receipt of the request on August 26, 2019, it has failed to produce responsive records for nearly five (5) months, and instead requested repeated extensions as “ESD continues to review documents related to” the FOIL request.¹ A copy of ESD’s correspondence with respect to the FOIL request, including its most recent extension request to January 22, 2020, is collectively annexed hereto as Exhibit B.

¹ ESD’s extension requests show strong correlation with adjournments of the return date for the Village of Floral Park’s action/proceeding challenging ESD’s approval of the Belmont Park Redevelopment Project and alleging improprieties in ESD’s bidding process for the Project, which is the subject of the FOIL request. The Village’s action/proceeding is captioned The Incorporated Village of Floral Park, New York
Pursuant to New York Public Officers Law Section 89(3)(a), if an agency determines that circumstances prevent disclosure within twenty (20) business days of acknowledging receipt of a FOIL request, the agency must state in writing the reason for its inability to timely respond to the request and a reasonable date certain in which the request will be granted in whole or in part. N.Y. Pub. Off. L. § 89(3)(a). Failure of an agency to comply with this provision constitutes a constructive denial of the request. N.Y. Pub. Off. L. § 89(4)(a).

ESD has unreasonably delayed in providing a substantive response to the Village’s FOIL request, and its claim that “ESD continues to review records” does not provide a reasoned basis for its inability to timely respond in contravention of FOIL’s legislative purpose. See N.Y. Pub. Off. Law § 84.2 If ESD does not provide a substantive response to the Village’s FOIL request on or before the January 22, 2020 extension date, the Village will consider the request constructively denied and seek all appropriate relief, including but not limited to a formal appeal and an Article 78 proceeding seeking reasonable attorneys’ fees for a continued denial. See N.Y. Pub. Off. L. § 89(4)(b), (c); New York Times Co. v. City of New York Police Dep’t, 103 A.D.3d 405, 406 (1st Dep’t 2013) (the statutory remedy for untimely FOIL response is to deem the response a denial and commence a CPLR Article 78 proceeding).

Thank you for your attention to this matter and do not hesitate to contact our office with any questions.

Sincerely,

Michael G. Murphy

Encls.

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v. New York State Urban Development Corporation d/b/a Empire State Development, et al., Nassau County Supreme Court Index No. 612399/2019 (Mahon, J.).

2 New York Public Officers Law Section 84 provides that “The people’s right to know the process of governmental decision-making and to review the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality.”
August 19, 2019

VIA OPEN FOIL NY

<table>
<thead>
<tr>
<th>NYS Department of Financial Services Office of General Counsel Attn: Records Access Officer One State Street, 20th Floor, New York, NY 10004</th>
<th>Records Access Officer New York State Department of State One Commerce Plaza 99 Washington Avenue Albany, NY 12231</th>
</tr>
</thead>
<tbody>
<tr>
<td>Records Access Officer NYS Department of Taxation and Finance W.A. Harriman Campus Bldg 9, Room 100</td>
<td>Records Access Office NYSDOT 50 Wolf Road, 6th Floor Albany, NY 12232</td>
</tr>
<tr>
<td>Records Access Officer NYS Office of General Services Public Affairs Office Corning Tower Building, 41st Floor Empire State Plaza Albany, New York 12242-0001</td>
<td>Record Access Officer Empire State Development 633 3rd Ave, 37th Floor New York, NY 10017</td>
</tr>
<tr>
<td>FOIL Access Administrator DASNY 515 Broadway Albany, New York 12207</td>
<td></td>
</tr>
</tbody>
</table>
August 19, 2019

Re: FOIL Request – Belmont Park Master Plan
Incorporated Village of Floral Park

Dear Sir or Madam:

This firm represents the Incorporated Village of Floral Park and is writing to request records under the Freedom of Information Law, Article 6 of the Public Officers Law. The requested records relate to the Belmont Park Redevelopment Project. However, in responding to the requests below, please do not view the requests as limited in any manner. In other words, responsive records to each request should be produced regardless of whether the records explicitly or implicitly reference the Belmont Park Redevelopment Project or regardless of whether the records are contained within files or folders relating to the Belmont Park Redevelopment Project.

To facilitate your search for records responsive to this request, a copy of one version of the draft Belmont Park Master Plan, dated November 14, 2016, can be found at this link:
https://fpvillage.org/wp-content/uploads/2019/03/2019-03-19-Village-of-Floral-Park-Supplemental-Comments-to-Belmont-DEIS.pdf (See Exhibit 1). The foregoing references to this version of the Master Plan, however, are not intended to limit the scope of the requests in any manner.

Please provide electronic copies of the following records:

- Any and all records discussing, relating to, or concerning the attached draft Belmont Park Master Plan, dated November 14, 2016 ("Master Plan"), including, but not limited to all drafts of the Master Plan in the possession or control of any State official, employee, agent, consultant or other individual acting on the State’s behalf or at the State’s direction (collectively, "State Individuals"), including the name of the State Individual providing the record or document.

- Any and all correspondence discussing, relating to, or concerning the Master Plan or any draft thereof by and between any State Individual(s) and/or between a State Individual and any other party or individual.

It is requested that responsive documents be emailed to me at the email address provided below. If the requested records cannot be emailed to me due to the volume of records identified in response to my request, please advise me of the actual cost of copying all records onto a CD or DVD, or please advise me of the appropriate time during normal business hours for inspecting the records prior to obtaining copies.
August 19, 2019

Please contact me at (212) 702-5436 or at mmurphy@bdlaw.com if you have any questions.

Sincerely,

Michael G. Murphy

cc: Hon. Dominick Longobardi, Mayor, Floral Park
    Gerard Bambrick, Village Administrator, Floral Park
    Village Board of the Village of Floral Park
Dear Mr. Murphy:

Please be advised that ESD continues to review documents related to the attached FOIL request in accordance with the Freedom of Information Law (Public Officers Law, Section 84 et seq.) (“FOIL”) and its rules concerning access to ESD’s records. ESD will notify you of the status of its review and endeavor to provide you with any responsive documents and/or determination(s) made pursuant to FOIL on or before January 22, 2020.

Thank you.

Records Access Officer
FOIL@esd.ny.gov

From: esd.sm.foil <FOIL@esd.ny.gov>
Sent: Wednesday, November 6, 2019 4:57 PM
To: mmurphy@bdlaw.com <mmurphy@bdlaw.com>
Cc: esd.sm.foil <FOIL@esd.ny.gov>
Subject: FW: (#2981 Murphy) FOIL Request - Status Update

Dear Mr. Murphy:

Please be advised that ESD continues to review documents related to the attached FOIL request in accordance with the Freedom of Information Law (Public Officers Law, Section 84 et seq.) (“FOIL”) and its rules concerning access to ESD’s records. ESD will notify you of the status of its review and endeavor to provide you with any responsive documents and/or determination(s) made pursuant to FOIL on or before December 20, 2019.

Thank you.
Dear Mr. Murphy:

Please be advised that ESD continues to review documents related to the attached FOIL request in accordance with the Freedom of Information Law (Public Officers Law, Section 84 et seq.) (“FOIL”) and its rules concerning access to ESD’s records. ESD will notify you of the status of its review and endeavor to provide you with any responsive documents and/or determination(s) made pursuant to FOIL on or before November 6, 2019.

Thank you.

Records Access Officer
FOIL@esd.ny.gov

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Dear Mr. Murphy:

ESD is in receipt of the attached FOIL requests seeking access to certain records of the New York State Urban Development Corporation (“UDC”) doing business as Empire State Development (“ESD”).

ESD is considering your request in accordance with the Freedom of Information Law (Public Officers law, Section 84 et seq.) and its rules concerning access to the records of the Corporation. ESD will notify you of the results of its search for responsive documents within twenty (20) business days.

Thank you.

Records Access Officer
FOIL@esd.ny.gov

IMPORTANT: This e-mail message and any attachments contain information intended for the exclusive use of the individual(s) or entity to whom it is addressed and may contain information that is proprietary, privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any viewing, copying, disclosure or distribution of this information may be subject to legal
restriction or sanction. Please immediately notify the sender by electronic mail or notify the System Administrator by telephone (518)292-5180 or e-mail (administrator@esd.ny.gov) and delete the message. Thank you.
New FOIL Request for Office of General Services, Empire State Development Corporation, Dormitory Authority of the State of New York

Submitted on: 8/19/2019 4:49:41 PM
Request Confirmation Number:
CIOLINO_OGS_20190819164940969
CIOLINO_ESDC_20190819164940969
CIOLINO_DASNY_20190819164940969

INFORMATION SUBMITTED:

Title
Ms.
Katelyn
First Name
Katelyn
Middle Initial
Ciolino
Last Name
E-Mail
ciolino@bdlaw.com
Telephone
(212) 702-5428
Fax
Affiliation/Organization
Beveridge & Diamond
Street Address 1
477 Madison Ave, 15th Floor
Street Address 2
City
New York
State
NY
Zip Code
10022
Country
USA
Short Title
Belmont Park Master Plan
Description
Please see the attached correspondence dated August 19, 2019, containing a description of the records sought.
FOIL Response Format

If fees apply, please contact me if costs will be greater than

Email

75

Additional Information

I am affiliated with a private corporation and am seeking information for use in the company's business for non-commercial purpose.