



THE TWIN TOWERS ALLIANCE

June 13, 2012

Brad M. Sonnenberg, General Counsel and Secretary
Lower Manhattan Development Corporation
One Liberty Plaza, 20th Floor
New York, NY 10006

Dear Mr. Sonnenberg,

The LMDC website is laced with references to “an inclusive and open public process.” In one of the agency’s earliest planning documents – the April 9, 2002, "Principles for Development and Blueprint for Renewal for the World Trade Center Site" – the first of the stated eleven principles is: "Make decisions based on an inclusive and open public process." (Emphasis added.)

On January 3, 2011, the Twin Towers Alliance submitted a Freedom of Information request asking the LMDC for documents that would validate the ubiquitous claims that the official project was somehow the result of a democratic process. From the time the request was acknowledged in early January until the beginning of April, 2011, we received seven notices that the "results of this review and/or determinations" would follow two weeks later.

But the Freedom of Information Law (FOIL) does not provide for serial extensions. If the information cannot be produced within 20 business days of the acknowledgement, the law requires the agency’s Records Access Officer to advise of a "date certain within a reasonable period, depending on circumstances, when the request will be granted in whole or part."

For that reason, in April, 2011, we notified the General Counsel, Ms. Chang-Cimino, that we considered our request to have been constructively denied and appealed the denial to her. We have no record of a reply to that appeal. She did answer a different appeal, but made no mention of this request. What's more, she signed two of the next three "extensions" herself.

The bi-weekly extensions continued through September, and then after telling us 20 times that the LMDC was "continuing to gather and review records potentially responsive" to our request, we started receiving monthly notices instead – almost a year into the inquiry – advising that "given the high volume of public requests for documents, Lower Manhattan Development Corporation ("LMDC") is continuing to gather and review records potentially responsive to the above-referenced request... "

Public disclosure is not where any agency should be cutting costs – least of all the Lower Manhattan Development Corp. Money has been no object with the LMDC all along. Your staff thought nothing of routinely sending the bi-weekly notices by Certified/Return Receipt Requested mail – at a cost of more than ten times the standard postage – and we had to repeatedly urge them to use regular mail.

If more people are needed to process the backlog, why haven't you made it a priority, instead of using the manpower you do have to simply run in place? We presume that the high volume of public requests is resulting in an equally high volume of repeated monthly extensions. Since the practice of sending serial extensions is not in compliance with FOIL, why bother? Why not dispense with the pointless advisories and use that time instead to make some actual progress?

This and the many other Freedom of Information inquiries we have made to the LMDC and Port Authority were not frivolous. We are certainly not being paid, whether or not we perform. The multi-billion dollar project was characterized as the result of an "inclusive and open process." We are doing our best as private citizens to hold officials to account for what they say and what they do.

The "Process and Framework" page on your website explains: "After the release of nine plans in December 2002, LMDC set out again on an extensive public outreach campaign... Our efforts resulted in over 12,000 thoughtful comments from all over the City, the nation and the world..."

Why is it so hard to establish what the LMDC did with all those thoughtful comments and what part they played in the selection? Our interest is not academic. Reference to the public's participation has been sandwiched into every announcement, speech, and official document for the last ten years. As recently as 2009, Governor Pataki insisted on national TV that ten million people took part in the process.

And Mayor Bloomberg told TIME Magazine in November, 2010, that "never before have so many citizens felt such a deep personal connection to a site and taken such an active role in planning its future." If that is true, why haven't we seen a single document to substantiate the sweeping claims that drove the multi-billion dollar process?

How were the public's comments handled and in what way did the "inclusive and open public process" result in decisions that were based on the public's input? Documents had to have been created to track the public's "active role" if officials were to review the information they needed to achieve that lofty goal. Why hasn't the LMDC produced a single one in a year and a half?

As you know, false claims invalidate legal agreements. In this case, misrepresentations could render the enormous government payouts fraudulent. Eighteen months is much too long to wait for proof that our officials haven't pulled off a massive scam at the public's expense. We hope this matter that has been languishing for far too long will receive the attention it deserves.

Sincerely,

The image shows two handwritten signatures in blue ink. The signature on the left is 'Margaret Donovan' and the signature on the right is 'Richard Hughes'. Both are written in a cursive, flowing style.

Margaret Donovan and Richard Hughes
for The Twin Towers Alliance

cc: Chairman David Samson and Executive Director Patrick J. Foye, The Port Authority of NY and NJ
Robert J. Freeman, Executive Director, the Committee on Open Government, NY DOS

