

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

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In the Matter of the Application of	:	
THE CITY and YOAV GONEN,	:	
	:	
Petitioners,	:	
	:	
-against-	:	Index No. 161633/2023
	:	
The NEW YORK CITY POLICE DEPARTMENT,	:	Mot. Seq. #003
and EDWARD A. CABAN, in his official capacity	:	
as Commissioner of the New York City Police	:	
Department	:	
	:	
Respondents.	:	
	:	
For a Judgment Pursuant to Article 78	:	
of the Civil Practice Law and Rules	:	
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**REPLY IN SUPPORT OF MOTION TO COMPEL PRODUCTION  
OF RESPONSIVE RECORDS**

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and Yoav Gonen*

*\*Pro Hac Vice*

Pursuant to Section 202.8 of the New York Uniform Civil Rules, THE CITY and its reporter Yoav Gonen (“Gonen”) (“Petitioners”) respectfully moved the Court on May 28, 2024 to compel the New York City Police Department and its Commissioner Edward A. Caban (collectively, “Respondents”) to produce records responsive to Petitioners’ New York Freedom of Information Law, N.Y. Pub. Off. Law §§ 84, *et seq.* (“FOIL” or the “Law”) request. As discussed therein, Petitioners and Respondents filed a Stipulation of Adjournment on April 15, 2024, agreeing that Respondents would “commence productions of responsive records for Petitioners *on or before May 17, 2024.*” Stip. of Adjournment (Apr. 15, 2024) (emphasis added). Efforts by Petitioners’ counsel to ensure transmittal of such long-awaited production through meet and confer discussions have been unsuccessful. Accordingly, Petitioners respectfully requested that the Court enter the proposed order filed therewith requiring Respondents to comply with their production obligations.

Respondents have filed no opposition to such relief, nor have they sought an extension of time within which to lodge such opposition. Accordingly, Respondents have waived their right to do so and have conceded to Petitioners’ arguments. *See, e.g., Pearl Contracting, Inc. v. Kamalakar*, 65 Misc. 3d 1211(A), 119 N.Y.S.3d 14 (N.Y. Sup. Ct. 2019) (“Pearl did not address their arguments against . . . thus leaving such arguments unopposed.”); *Mills v. Steuben Foods, Inc.*, No. 19-CV-1178WMS(F), 2023 WL 4781904, at \*3 (W.D.N.Y. July 27, 2023) (“Where a party fails to oppose a request for [relief], the court may find the party to have conceded to the request based on the absence of any opposition . . . . Accordingly, the court finds Defendants’ request . . . is conceded by Plaintiff as unopposed and as such should be GRANTED.”); *United States v. Inniss*, No. 18-CR-134 (KAM), 2019 WL 6117987, at \*5 (E.D.N.Y. Nov. 18, 2019) (“[The] motion is unopposed and conceded.”); *Yu Mei Chen v. Nielsen*, 363 F. Supp. 3d 333, 339





**Certificate Pursuant to Part 202.8-b of the Uniform Civil Rules for the Supreme Court**

I, John M. Browning, certify that, pursuant to Part 202 of the Uniform Civil Rules for the Supreme Court, the Reply Memorandum of Law in Further Support of Petitioners' Motion to Compel contains 458 words.

/s/ John M. Browning

John M. Browning