

July 31, 2022

Town of Hempstead
FOIL Appeals Officer
Donald Derham
donader@tohmail.org

Re: 2nd Appeal of FOIL #2022103760-TCK Investigations.

Mr. Derham,

REMINDER: §89(4)(a) states the following: *"In addition, each agency shall immediately forward to the committee on open government a copy of such appeal when received by the agency and the ensuing determination thereon."*

I am appealing, FOR THE SECOND TIME, the denial of my FOIL request for the records regarding my Ethics Complaint against the Town's Compliance Officer Thomas R. Willdigg.

I sent you the first appeal on July 5, 2022 after the Town DID NOT respond to my FOIL request within 20 business days or provide me with a date when I could expect the records.

The most recent response, dated July 29, 2022, from FOIL officer Marie Jerome states that my entire FOIL request is being denied as shown below. This response differs from Ms. Jerome's June 22, 2022 response in which Ms. Jerome wrote: *"there are no responsive documents for items 1 through 9. We are following up on item 10."* (I am not sure if the Town is backing away from its original determination or not), **PLEASE CLARIFY.**

Please be advised that your FOIL request is being denied in its entirety on the following two grounds:

1. Disclosure of the responsive records would result in an unwarranted invasion of personal privacy (the Board of Ethics did not find that Mr. Willdigg violated any duty), and
2. The responsive records are protected by the Deliberative Process Privilege (below is a description of the privilege).

I am appealing this decision because the Town failed to specify which records, if disclosed, would be an unwarranted invasion of personal privacy. In addition, why can't these records be redacted accordingly?

The records I specifically requested have to do with campaign contributions and the transfer of control of Mr. Willdigg's business and to this Ms. Jerome indicated, on June 22, 2022 that there are **no responsive documents**.

As for records Ms. Jerome claims are protected by "***Deliberative Process Privilege***", I DID NOT ask for records containing any advisory opinions, recommendations, or deliberations.

My FOIL request asked for the records the ethics board claimed they used to make their decision. I also asked for any other records gathered during the Ethics Board investigation.

Opinions, recommendations, and deliberations are created from the results of evaluating evidence gathered, and is not gathered during the course of an ethics investigation.

So, once again, I am asking for a PROPER FOIL RESPONSE to the records I requested in my original FOIL request which is provided at the end of this document.

I request that the records be provided to me in pdf format. If there are a large number of documents (that will take over 2 hours to scan), I ask that I be given time to view the records.

If for any reason any portion of my request is denied, please inform me of the reasons for the denial in writing BY EMAIL and provide the name, email address (if available), and postal address of the person or body to whom an appeal should be directed.

As you know, the Freedom of Information Law requires that an agency respond to a request within five business days of receipt of a request, and agencies must accept requests and transmit records requested via email in the format requested when they have the ability to do so. Therefore, I would appreciate a response via email as soon as possible and look forward to hearing from you shortly.

If you have any questions regarding this request, please let me know. If the cost to process this request will exceed \$0.00, please contact me via phone or email prior to processing this request.

Sincerely,
Felix Procacci
1165 Barnes Street
Franklin Square, New York, 11010

felixguyprocacci@gmail.com

516-233-1562

FOIL REQUEST 202103760

Pursuant to the Freedom of Information Law, I request the following information:

1. The minutes of TCK Investigations meeting that show that Thomas Willdigg resigned as President of TCK Investigations.
2. The minutes of TCK Investigations meeting that show the appointment of Katy Thompson as President of of TCK Investigations.
3. The minutes of TCK Investigations meeting that show the appointment of Thomas W. Willdigg as Vice President of of TCK Investigations.
4. Records that show Mr. Willdigg has not received any salary or compensation from TCK Investigations since his resignation as President.
5. Records that show that Thomas Willdigg divested himself of his ownership interest in TCK Investigations on September 7, 2022.
6. Bank records that show a September 9, 2021, \$1600 campaign contribution to Friends of Don Clavin was made by TCK Investigations.
7. Records that show that Thomas W. Willdigg attended a 2021 golf outing in support of the election campaign of Supervisor Clavin.
8. Records that show that Thomas R. Willdigg DID NOT attend a 2021 golf outing in support of the election campaign of Supervisor Clavin.
9. Records that show all employees of TCK Investigations that attended a 2021 golf outing in support of the election campaign of Supervisor Clavin.
10. All other records, **not mentioned in items 1 through 9**, that the Town's Ethics Board board gathered during its investigation of the October 18th 2021 Ethics complaint against Thomas Willdigg.

PLEASE NOTE: The Town's Ethics Board letter dated March 3, 2022 regarding *"Complaint dated October 18, 2021: Alleged Prohibited Political Activities"* to Felix Procacci (see attached letter) mentions that the information asked for in this FOIL request was used as *"evidence"* by the Town's Ethics Board to render its decision.