State of New York
Department of State
Committee on Open Government

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FOIL 19891

October 21, 2026

The Committee on Open Government is authorized to issue advisory opinions. The ensuing advisory opinion is based solely upon the information presented in your correspondence.

Dear :

I am writing in response to your letter dated October 8, 2026 addressed to Secretary of State Mosley, regarding your concerns about the public availability of records relating to property ownership. The Secretary has asked that I respond on his behalf.

The Freedom of Information Law (FOIL) is a state statute and is based upon a presumption of access. All records maintained by, with, or for a government agency, such as the Town of Clifton Park, must be disclosed in response to a FOIL request unless the Town can assert one or more of the statutory grounds for denial. Records relating to ownership of real property are public by statute, not by rules or regulations promulgated by either the Department of State or the Committee on Open Government. Any changes to those statutes would need to be made through the legislative process. If you wish to advocate for changes to the law, you may wish to contact your Senate and Assembly representatives.

As noted above, FOIL is based upon a presumption of access. You express the opinion that the information being requested, property addresses, valuation, and owners, is private. However, Public Officers Law (POL) § 89(2)(c)(iv) states:

> when a record or group of records relates to the right, title or interest in real property, or relates to the inventory, status or characteristics of real property, in which case disclosure and providing copies of such record or group of records shall not be deemed an unwarranted invasion of personal privacy, provided that nothing herein shall be construed to authorize the disclosure of electronic contact information, such as an e-mail address or a social network username, that has been collected from a taxpayer under section one hundred four of the real property tax law.

In addition, it is important to note that, in addition to the presumption of access established by FOIL, New York State Real Property Tax Law (RPTL) also establishes that the records in question are public.

> On or before the first day of July, the assessor or assessors shall complete the final assessment roll, deliver the original to the clerk of the county legislative body, and prepare and file a
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> certified copy in the office of the city or town clerk. The assessor or assessors shall forthwith cause a notice to be published once in the official newspaper of such city or town, or if no newspaper has been designated the official newspaper, in a newspaper having general

> circulation in such city or town, stating that the final assessment roll has been completed and a certified copy thereof so filed for public inspection. In towns, the assessors shall also cause a copy of the published notice to be posted on the signboard maintained for the posting of legal notices at the entrance of the town clerk's office pursuant to subdivision six of section thirty of the town law.
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> 2. The certified copy of the final assessment roll shall be retained in the office of the city or town clerk as a public record for a minimum of ten years from the date the final assessment roll was filed.

Emphasis added RPTL §516

POL § 89(6) states:

> Nothing in this article shall be construed to limit or abridge any otherwise available right of access at law or in equity to any party to records.

If records are available as of right under a different provision of law or by means of judicial determination, nothing in FOIL can serve to diminish rights of access. Specifically, the courts have held that because assessment rolls are independently available under RPTL §516, those records must be disclosed even if an applicant has requested the record for a commercial purpose.[1] See *Szikszay v. Buelow*, 107 Misc. 2d 886, 892, 436 N.Y.S.2d 558, 562 (Erie County Supreme Court 1981).

The Committee on Open Government is authorized by statute to provide advice and non-binding legal opinions regarding the New York State open government statutes. It is not within the Committee's statutory remit to opine on the applicability of the privacy provisions of the United States Constitution.

I hope this information proves useful.

Sincerely,

Kristin Bergin
Acting Executive Director
Committee on Open Government

[1] Chapter 223 of the Laws of 2008 amended Public Officers Law § 89(2)(b)(iii) and § 89(3)(a) to replace the word "commercial" with "solicitation."