

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Brian Leonard,

Complainant

against

Docket #FIC 2019-0540

Mayor, Town of Plymouth; and Town of
Plymouth,

Respondents

June 24, 2020

The above-captioned matter was heard as a contested case on November 19, 2019, at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents are public agencies within the meaning of §1-200, G.S.
2. It is found that by email dated July 23, 2019, the complainant requested a copy of the resume of the individual selected to fill the position of Parks and Recreation Director for the respondent Town of Plymouth. It is also found that by email dated August 7, 2019, the complainant renewed his request for a copy of the resume, and also requested a copy of all email correspondence with the complainant's name between the interim recreation director, all recreation commission members, and any Town Hall personnel (including the Mayor), including any and all hand written notes from voice mail messages or voicemail recordings, and an opportunity to "review the computer" of the interim director. It is further found that the complainant continued to contact the respondents regarding his requests by emails dated August 8, 2019 and August 13, 2019.
3. It is found that, by email dated August 14, 2019, the respondent Mayor acknowledged the complainant's requests, notifying the complainant that the respondents would be working to gather responsive records.
4. By email dated August 28, 2019, the complainant appealed to the Commission, alleging that the respondents violated the FOI Act by failing to provide all records responsive to

his request.

5. Section 1-200(5), G.S., defines “public records or files” as follows:

Any recorded data or information relating to the conduct of the public's business prepared, owned, used, received or retained by a public agency, ...whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

6. Section 1-210(a), G.S., provides, in relevant part:

Except as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to (1) inspect such records promptly during regular office or business hours, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212.

7. Section 1-212(a), G.S., provides in relevant part: “Any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

8. It is found that, to the extent the requested records exist, they are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

9. At the hearing, the respondents contended that all records responsive to the complainant’s request had been produced and introduced evidence of approximately 100 pages of responsive records (a packet approximately one inch in thickness). The complainant contended, however, that the respondents maintain additional responsive records, specifically, correspondence (e.g., email, voicemail, and notes) between the interim Parks and Recreation Director, members of the recreation commission, and town personnel.

10. It is found that on or about November 15, 2019, the respondents provided the complainant with records responsive to his request. Based upon the credible testimony offered at the hearing about the search conducted and the records produced to the complainant, it is found that the respondents do not maintain any additional records responsive to the complainant’s request.

11. Consequently, it is found that the respondents did not violate the FOI Act as alleged by the complainant.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. The complaint is hereby dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of June 24, 2020.



Cynthia A. Cannata
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

BRIAN LEONARD, PO Box 1425, Litchfield, CT 06759

MAYOR, TOWN OF PLYMOUTH; AND TOWN OF PLYMOUTH, c/o Attorney William Hamzy, The Hamzy Law Firm, 140 Farmington Avenue, Bristol, CT 06010



Cynthia A. Cannata
Acting Clerk of the Commission