

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Diego Vas II,

Complainant

against

Docket # FIC 2020-0253

Thomas DeNuto, Assessor, City of Bristol;
City of Bristol; Angel Quiros,
Commissioner, State of Connecticut,
Department of Correction; and State of
Connecticut, Department of Correction,

Respondents

August 11, 2021

The above-captioned matter was heard as a contested case on June 8, 2021, at which time the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint. Due to the COVID-19 pandemic and the state's response to it, the hearing was conducted telephonically.¹ The complainant is incarcerated in a correctional facility of the respondents.

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(1), G.S.

2. By letter of complaint filed June 8, 2020², the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by denying his request for certain public records.

¹ On March 14, 2020, the Governor issued Executive Order 7B, which suspended the requirement to conduct public meetings in person.

² On March 25, 2020, the Governor issued Executive Order 7M, thereby suspending the provisions of Conn. Gen. Stat. §1-206(b)(1), which requires the Freedom of Information Commission to hear and decide an appeal within one year after the filing of such appeal. Executive Order 7M is applicable to any appeal pending with the Commission on the issuance date and to any appeal filed on or after such date, for the duration of the current public and civil preparedness emergency. Consequently, the Commission retains jurisdiction.

3. It is found that, by letter-form dated April 29, 2020, the complainant requested that the respondent City of Bristol provide him with the following:

The legal description of lot comprising 161 Burlington Ave together with the legal owner and/or mortgagor and mortgagee as appearing in the land records of the Town of Bristol. The description and registration numbers of all motor vehicles and/or vessels belonging to the owner of 161 Burlington Ave and assessed by the Town of Bristol.

4. Section 1-200(5), G.S., provides:

“[p]ublic records or files” means any recorded data or information relating to the conduct of the public's business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

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

[e]xcept 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 ... (3) receive a copy of such records in accordance with section 1-212.

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

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

8. Section 1-210(c), G.S. provides that

[w]henever a public agency receives a request from any person confined in a correctional institution or facility ... for disclosure of any public record under the [FOI] Act, the public agency shall promptly notify the Commissioner of Correction ... of such request, in the manner prescribed by the commissioner, before complying with the request as required by the [FOI] Act. If the

commissioner believes the requested record is exempt from disclosure pursuant to subdivision (18) of subsection (b) of this section, the commissioner may withhold such record from such person when the record is delivered to the person's correctional institution

9. It is found that the respondent City of Bristol searched for and identified responsive records and sent such records to the complainant at the respondent Department of Correction ("DOC") facility. It is further found that the respondents City of Bristol did not redact or withhold any records from the complainant.

10. It is therefore concluded that the respondent City of Bristol did not violate the FOI Act as alleged by the complainant.

11. However, it is found that by letter dated May 18, 2020, the respondent DOC FOI Administrator, Counselor Supervisor Anthony Campanelli, notified the complainant that the requested records had been received by the respondent DOC and were being withheld pursuant to §§18-101f and 1-210(b)(18), G.S.

12. During the hearing, the respondent DOC contended that the responsive records are exempt from disclosure pursuant to §1-210(b)(18), G.S.³ The complainant disputed the respondents' contention.

13. Immediately following the hearing and pursuant to the order of the hearing officer, the respondents submitted to the Commission for in camera inspection an unredacted copy of the responsive records, as well as an in camera index. Such records are hereinafter identified as IC-2020-0253-0001 through 2020-0253-0004 (the "in camera records") and are described as "City of Bristol Property Assessment Record of CT DOC staff member's family's property" on the index.

14. Section 1-210(b)(18), G.S., provides, in relevant part, that disclosure is not required of "[r]ecords, the disclosure of which the Commissioner of Correction . . . has reasonable grounds to believe may result in a safety risk, including the risk of harm to any person or the risk of an escape from, or a disorder in, a correctional institution or facility under the supervision of the Department of Correction...."

15. The Commission's role in reviewing the DOC Commissioner's safety risk determination under §1-210(b)(18), G.S., is to determine "whether the [commissioner's] reasons were pretextual and not bona fide, or irrational." Comm'r v. Freedom of Info. Comm'n, 46 Conn. L. Rptr. 533, 2008 WL 4926910, at *5 (Conn. Sup. Ct. Nov. 3, 2008).

16. It is found that, at the time of the request, the property that is the subject of the in camera records was owned by a family member of a then-current employee of the DOC. It is

³ The DOC respondents abandoned their claim that the records are exempt pursuant to §18-101f, G.S. and therefore such contention will not be further addressed herein.

further found that the in camera records consist of descriptive information about the property and images.

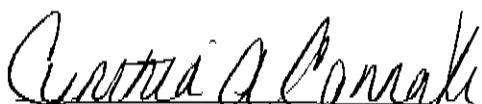
17. Based upon the credible testimony of FOI Administrator Campanelli, and a careful, in camera review, it is found that the respondents had reasonable grounds to believe that disclosure of the in camera records would pose a safety risk and risk of harm to a DOC employee and his family. It is further found that the respondents had reasonable grounds to believe that disclosure of the records could result in harm, threat, or bribery of the employee or the employee's family. It is further found that the reasons given by the respondents are bona fide, and not pretextual or irrational.

18. Accordingly, it is concluded that the in camera records are permissibly exempt from disclosure pursuant to §1-210(b)(18)(G), G.S., and that the DOC respondents did not violate the FOI Act as alleged in the complaint.

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 August 11, 2021.



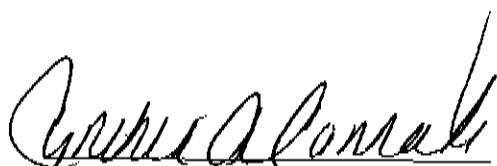
Cynthia A. Cannata
Acting Clerk of the Commission

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:

DIEGO VAS II, #218580, Osborn Correctional Institution, P.O. Box 100, Somers, CT 06071

THOMAS DENUTO, ASSESSOR, CITY OF BRISTOL; CITY OF BRISTOL, c/o Attorney Thomas W. Conlin, Bristol Corporation Counsel, 111 North Main Street, Bristol, CT 06010; **ANGEL QUIROS, COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION; AND STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION**, c/o Attorney Jennifer Lepore, Department of Correction, 24 Wolcott Hill Road, Wethersfield, CT 06109



Cynthia A. Cannata
Acting Clerk of the Commission