

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Matthew Olson,

Complainant

against

Docket #FIC 2019-0699

Office of Legal Affairs,
City of Stamford; and
City of Stamford,

Respondents

February 10, 2021

The above-captioned matter was heard as a contested case on October 5, 2020, 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

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. It is found that by letter dated November 6, 2019, the complainant made a request to the respondents for:

...an opportunity to inspect or obtain copies of all communications referencing me, my name, my business, FOI request, and complaints. Communications include, but are not limited to emails, memoranda, hand- or type-written notes, calendar entries, meeting minutes, documents, spreadsheets, presentations, voicemails or any other communication in the possession of the City of Stamford, by and between any employee or representative of the City of Stamford. Please provide responsive information containing references to the following persons and entities:

- Matthew Olson (aka Matt Olson, Matthew J. Olson; also, common misspelling Olsen)
- Kenna Consulting, Inc.

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

- 73 Mill Road
- Internal references or monikers for my FOI requests and police complaint. ("November 6th request").

3. By email received on November 19, 2019,² the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information Act by failing to comply with his November 6th request, described in paragraph 2, above.

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

"Public 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 that:

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.

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

8. It is found that by letter dated March 4, 2020, the respondents provided the complainant a computer disc containing unredacted copies of 503 emails responsive to his November 6th request. It is also found that by two separate emails dated March 6, 2020, the respondents provided the complainant with an additional 370 emails responsive to such request.

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 health and civil preparedness emergency. Consequently, the Commission retains jurisdiction.

In addition, it is found that the respondents informed the complainant that the emails provided on March 4 and 6, 2020, respectively comprised all of the emails that the City possessed that were responsive to the November 6th request.

9. It is found that approximately three months later, by email dated June 5, 2020, the complainant informed the respondents that he had reviewed the records described in paragraph 8, above, and could not conclude that the respondents' response was "comprehensive." He informed the respondents that he was "unable to locate the 14 emails identified by Mr. Gaudett under oath at the FIC 2019-0480 hearing," and requested copies of "those 14 emails separately."

10. At the hearing, the complainant testified that he reviewed the records described in paragraph 8, above, and was "unable to locate" certain emails allegedly sent by the complainant himself, and to which Joseph Gaudett, Director of 911 Communications for the City of Stamford and former Police Chief for the City of Bridgeport, testified at the December 16, 2019 hearing in a separate matter, Docket #FIC 2019-0480; Matthew Olson v. Director of 911 Communications, Police Department, City of Stamford; Police Department, City of Stamford; and City of Stamford.³ The complainant testified that he searched his email "sent" box for and could not locate the referenced emails. The complainant also testified that he "may have inadvertently deleted" such emails. The complainant contended that based on his review of the records provided in response to his November 6th request and the sworn testimony of Mr. Gaudett in Docket #FIC 2019-0480, either the respondents failed to provide a comprehensive response to the November 6th request or Mr. Gaudett made false statements under oath. The complainant requested that the matter be referred to the State's Attorney if Mr. Gaudett is found to have been untruthful.

11. At the hearing, the respondents contended that all responsive emails located were provided to the complainant. The respondents testified, and it is found, that the respondents' IT Department which manages the official email system for the City of Stamford and Stamford Public Schools searched all email accounts utilizing the key words provided by the complainant in his November 6th request. They testified that there are "archival rules" in place so that "all emails are retained indefinitely."

12. It is found that the IT Department located and compiled a total of 873 emails, which were all provided to respondents' counsel who then forwarded such emails to the complainant.

13. It is found that the respondents provided the complainant with all emails that they located which are responsive to his November 6th request.

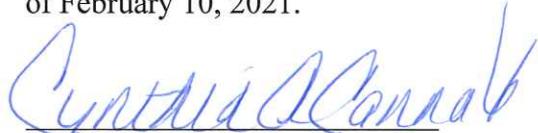
14. It is therefore concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S.

³ On December 10, 2020, the complainant submitted, without objection, a disc containing an audio recording of a portion of the hearing in Docket #FIC 2019-0480. Such disc has been marked as Complainant's Exhibit A1 (after-filed).

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 February 10, 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:

MATTHEW OLSON, 73 Mill Road, Stamford, CT 06903

OFFICE OF LEGAL AFFAIRS, CITY OF STAMFORD; AND CITY OF STAMFORD,
c/o Attorney Michael Toma, City of Stamford, Office of Corporation Counsel, 888
Washington Boulevard, Stamford, CT 06901



Cynthia A. Cannata
Acting Clerk of the Commission