

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Corinne Bennett,

Complainant

against

Docket #FIC 2023-0094

Assessor, Town of Thomaston; and
Town of Thomaston,

Respondents

December 13, 2023

The above-captioned matter was heard as a contested case on June 6, 2023, at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint.

After the hearing, at the request of the hearing officer, the following after-filed exhibits were submitted, which have been admitted into evidence, without objection, and marked as follows:

Respondents' Exhibit 6 (after-filed): Letter from Respondents' Attorney to Tyler Technologies, dated May 9, 2023; and

Complainant's Exhibit G (after-filed): Tyler Technologies cover letter, dated November 7, 2019, with excerpts from the Respondents' Request for Proposal for Revaluation 2021.

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 form dated March 6, 2023, the complainant requested copies of the following records:
 - (a) “[v]aluation computations’ used to derive the specific Oct 2021 value of 385 Walnut Hill Rd”;
 - (b) “[t]he valid sales that were analyzed’ to determine the specific Oct 2021 value of 385 W Hill Rd”;
 - (c) “[c]onfirmation regarding the date of the full inspection of 385 Walnut Hill Rd in the last ten assessments years”; and

(d) “[r]ecord of any questionnaires sent to the owner of 385 Walnut Hill Rd to obtain verification property records were correct”.

3. It is found that, by email also dated March 6, 2023, the respondents provided the complainant with records responsive to her requests described in paragraphs 2(b), 2(c), and 2(d), above. It is also found that, with respect to the complainant’s request described in paragraph 2(a), above, the respondents wrote: “[v]aluation [c]alculations are inherent in the [Computer Assisted Mass Appraisal] system and are considered proprietary. This is not available.”

4. By letter of complaint, received and filed March 8, 2023, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide the records described in paragraph 2(a), above.

5. 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 1-218, whether such data or information be handwritten, typed, tape-recorded, videotaped, printed, photostated, photographed or recorded by any other method.

6. 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 ... (3) receive a copy of such records in accordance with section 1-212.

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

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

9. It is found that Tyler Technologies is a private vendor that responded to the respondents’ 2021 RFP and contracted with the respondents to provide appraisal and revaluation services and software to the Town of Thomaston (“town”), including the Computer Assisted Mass Appraisal system utilized by the town.

10. It is found that, by email dated February 22, 2023, prior to the complainant's request described in paragraph 2, above, the respondents disclosed to the complainant a report, entitled, "Tyler Technologies Appraisal & Tax Division Final Documentation Town of Thomaston" ("appraisal report").

11. At the hearing in this matter, the respondents testified, and it is found, that the appraisal report, described in paragraph 10, above, contains all numbers, tables, schedules, and other criteria used by the respondents and Tyler Technologies as the basis for the town's mass appraisal.

12. The respondents also testified, and it is found, that they searched for records responsive to the complainant's request, described in paragraph 2, above, and disclosed all such records to the complainant. The respondents further testified, and it is found, that they searched the only location where such records would be maintained, and no responsive records would be located elsewhere.

13. It is therefore found that the respondents conducted a thorough search for the requested records, described in paragraph 2, above, but did not find any records responsive to the request described in paragraph 2(a), above, beyond the appraisal report, described in paragraph 10, above, which had been previously disclosed.

14. At the hearing in this matter, the respondents testified that, while they utilize Tyler Technologies' valuation software, they do not have the ability to access the "innerworkings" of such software. The respondents also testified that any such valuation data in Tyler Technologies' software would consist of proprietary software and code, which would constitute trade secrets and be exempt from disclosure pursuant to §1-210(b)(5), G.S.¹

15. At the hearing in this matter, and in her post-hearing brief, the complainant stated that she was not requesting any codes or "any mathematical calculations, trade secrets, or software used in the process of revaluation." Rather, the complainant was requesting an explanation regarding what certain number valuations and word abbreviations represent on the respondents' Residential Property Record Cards for two residential properties located in the town and any records or paper files that would be the basis of such number valuations.

16. Although the respondents' witness testified that he knew what the number valuations and codes, described in paragraph 15, above, represent and could explain them to the complainant outside of the FOI Act process, he declined to provide such explanation at the June 6th hearing.

17. The Commission has long concluded, and the court has affirmed, that a public agency has no duty to create documents it does not already maintain or to answer questions under the FOI Act. See Kimberly Albright-Lazzari et al v. Colleen Murphy, Connecticut

¹ For the reasons set forth in paragraph 15, above, the exemption for trade secrets, under §1-210(b)(5), G.S., will not be further addressed herein.

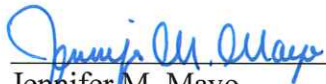
Freedom of Information Commission et al, CV105014984S, 2011 WL 1886878, at *3 (Conn. Super. Ct. April 21, 2011).

18. Based on all of the foregoing, it is concluded that the respondents did not violate §§1-210(a) or 1-212(a), G.S., 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 dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of December 13, 2023.



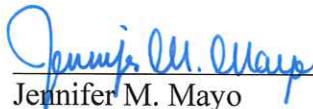
Jennifer M. Mayo
Acting Clerk of the Commission

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:

CORINNE BENNETT, 385 Walnut Hill Road, Thomaston, CT 06787

ASSESSOR, TOWN OF THOMASTON; AND TOWN OF THOMASTON, c/o Attorney Michael D. Rybak Jr., Guion, Stevens & Rybak, LLP, P.O. Box 338, 93 West Street, Litchfield, CT 06759



Jennifer M. Mayo
Acting Clerk of the Commission