

STATE OF CONNECTICUT
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by

FINAL DECISION

Marli Rudko,

Complainant

against

Docket # FIC 2022-0558

Andreas Bisbikos, First Selectman, Town of Colchester; Executive Assistant, Town of Colchester; Department Clerk, Town of Colchester; and Town of Colchester,

Respondents

October 25, 2023

The above-captioned matter was heard as a contested case on September 14, 2023, at which time the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint. The case caption was amended to add the Department Clerk, Town of Colchester, as a respondent, and to remove the Town Clerk, Town of Colchester from the respondents. See Regs., Conn. State Agencies §1-21j-30.

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 email dated November 21, 2022, the complainant made a request to the respondents for a copy of the following records:

[A]ny and all official documentation (contract/s, maintenance, last billing invoice-if applicable), [the Town of Colchester] holds with Novus Insight as it relates to the current surveillance equipment the town has in place. I am looking to obtain information that specifically identifies the initial purchase date, manufacturer, make, model of the DVR System, number of cameras that the system is actively linked to in order to provide surveillance, and the resulting retention period....

3. By complaint filed December 2, 2022, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by denying her request for the records described in paragraph 2, above. The complainant also requested that the

respondents issue a civil penalty against the respondents.

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, videotaped, printed, photostated, photographed or recorded by any other method.

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

[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.

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 records described in paragraph 2, above, to the extent they are maintained by the respondents, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

8. It is found that on November 21, 2022, the complainant appeared at the respondents’ town hall and requested records regarding the video surveillance system at town hall.

9. It is found that the respondent Department Clerk received the complainant’s request and notified the respondent First Selectman, who was in his office.

10. It is found that the respondent First Selectman understood the complainant’s request as seeking a copy of the contract pertaining to the video surveillance system at town hall. It is further found that the respondent First Selectman believed that he maintained responsive records and commenced a search while the complainant was present at town hall.

11. It is found that the respondent First Selectman located a document from Novus Insights, entitled “Managed Support for 2022-23.” It is found that Novus Insights is a company that has provided information technology services to the Town of Colchester for several years, and that the “Managed Support for 2022-23” document is an agreement between the Town of Colchester and Novus Insights for such services between July 1, 2022, and June 30, 2023.

12. It is found that the respondent First Selectman believed that the document described in paragraph 11, above, was responsive to the complainant's request and therefore he directed the respondent Department Clerk to provide a copy of such record to the complainant.

13. It is found that the complainant did not believe that the document described in paragraph 11, above, was responsive to her request, and therefore made the subsequent, written request described in paragraph 2, above, to the respondents.

14. It is found that, because the respondents believed that they complied with the complainant's oral and written request by providing her with a copy of the record described in paragraph 11, above, the respondents considered the complainant's request to be fulfilled and closed.

15. At the hearing, the complainant explained that she wanted a copy of the contract between Novus Insights and the town because she believed that it would contain the information she was seeking, described in paragraph 2, above, regarding the surveillance cameras. She also contended that the respondents did not provide records responsive to such request.

16. It is found that, although the respondents considered the complainant's request closed after providing her with a copy of the Novus Insights Managed Support document, because the complainant continued to renew the request described in paragraph 2, above, the respondents undertook additional efforts to locate any additional responsive records that they maintain.

17. It is further found that the respondents conducted a broader search of the files within the first selectman's office, which included a search of the respondents' "vault," where copies of older records are located. It is further found that the respondents did not locate any records responsive to the complainant's request described in paragraph 2, above.

18. It is further found that the respondent First Selectman contacted Novus Insights and communicated with its staff about the complainant's request. It is found that the respondent First Selectman ultimately learned that the video surveillance system was not purchased from Novus Insights, but instead Novus Insights "supports network connectivity" for the surveillance equipment. It is further found that the Novus Insights staff suggested that records related to the purchase of the cameras may be maintained in the town's Finance Department and records related to the management of the surveillance system may be maintained in the town's Public Works Department.

19. It is found that, although the respondents had no obligation to make records from other town departments available to the complainant, the respondents requested that the town's Finance Department search for records responsive to the complainant's request.¹ It is found that the Finance Department located one record, described as a preliminary quote, dated November

¹ See Lash v. Freedom of Info. Comm'n, 116 Conn. App. 171, 187 (2009), aff'd in part, rev'd in part, 300 Conn. 511 (2011) (As distinct agencies, the first selectman had no duty to maintain or make available the records of the town's law department, and the law department had no duty to maintain or make available the records of the first selectman).

25, 2016, for the installation of new cameras by Professional Protection, LLC. It is found that the respondents emailed a copy of such record to the complainant, but the complainant disputed receipt of such record from the respondents.²

20. Based on the foregoing, it is found that the respondents do not maintain any records responsive to the complainant's request described in paragraph 2, above.

21. It is therefore concluded that the respondents did not violate the disclosure provisions in §1-210(a) and 1-212(b), G.S., as alleged in the complaint.

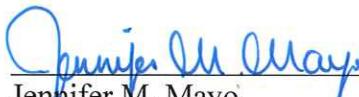
22. Because the respondents have not violated the FOI Act, as alleged in the complaint, consideration of the imposition of a civil penalty is not warranted.

23. The Commission notes that, to the extent she has not already done so, the complainant may make a request for records regarding the surveillance equipment at town hall to the Public Works Department and the Finance Department.

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 October 25, 2023.



Jennifer M. Mayo
Acting Clerk of the Commission

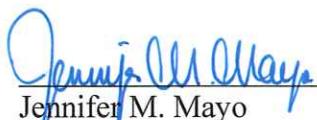
² The dispute between the parties regarding whether the respondent First Selectman emailed a copy of the record described in paragraph 19, above, to the complainant, and whether the complainant in fact received a copy of such record, is irrelevant to the issues actually before the Commission. The respondents had no duty obtain and make available a copy of the record described in paragraph 19, above, and the parties agreed that the record is not responsive to the request at issue in this matter.

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:

MARLI RUDKO, 71 Jurach Road, Colchester, CT 06415

ANDREAS BISBIKOS, FIRST SELECTMAN, TOWN OF COLCHESTER; EXECUTIVE ASSISTANT, TOWN OF COLCHESTER; TOWN CLERK, TOWN OF COLCHESTER, c/o Attorney Sarah Gleason, Shipman & Goodwin LLP, 300 Atlantic Street, 3rd Floor, Stamford, CT 06901; **AND TOWN OF COLCHESTER**, 127 Norwich Avenue, Colchester, CT 06415



Jennifer M. Mayo
Acting Clerk of the Commission