

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Gabriel Filer,

Complainant

against

Docket #FIC 2018-0065

Office of the City Attorney,
City of Bridgeport; and
City of Bridgeport,

Respondents

January 9, 2019

The above-captioned matter was heard as a contested case on April 19, 2018, at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint. On April 25, 2018, the respondents moved for permission to file a post hearing exhibit. That motion was granted without objection, and the exhibit has been marked as Respondent's Exhibit 3.

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 February 7, 2018, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by denying his January 9, 2018 request for certain public records.
3. It is found that the complainant made a January 9, 2018 request for copies of all emails between him and Isolina DeJesus on September 12, 2017, and all emails between DeJesus and Eric Armado on December 6-8, 2017.
4. It is found that the respondents acknowledged the request on January 9, 2018, indicating to the complainant that requests were processed in the order they were received.
5. It is found that requests for emails are processed through the respondents' information technology ("IT") department.
6. It is found that 65 requests were pending with the IT department at the time of the complainant's request.
7. It is found that the respondents asked the IT department about the status of the complainant's request on January 31, 2018.

8. It is found that the IT department asked where to deliver the files on February 20, 2018, and uploaded the results of its search to a portal accessible to the respondents on March 14, 2018.

9. It is found that the IT department had retrieved the entire contents of the relevant inboxes and deleted emails for the requested date range (not just emails between the parties identified in the request), which the respondents printed and reviewed manually on March 15, 2018

10. It is found that the respondents provided seven documents to the complainant in response to his request on March 15, 2018.

11. It is found that the emails provided were the only emails responsive to the complainant's request.

12. It is found that the respondents, after the hearing, determined that the complainant was seeking an email sent on September 13, 2018, not September 12, 2018 as he had requested.

13. It is found that the respondents then provided the September 13, 2018 email to the complainant.

14. Section 1-200(5), G.S., defines "public records or files" as:

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.

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

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

17. 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.

18. It is found that the complainant himself mistakenly identified the date of the email between him and DeJesus in his request (and was insistent on the correctness of his date at the hearing on this matter), but that the respondents nonetheless located an email with a different date that was the email he actually sought.

19. It is found that the respondents provided all emails, including deleted emails, that were responsive to the complainant's request, although there were in fact no emails between Armado and DeJesus.

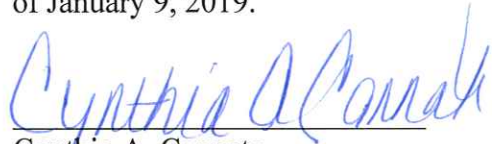
20. Although, as the respondents concede, their process for locating emails may not be the most efficient possible, it is found that the emails were provided promptly under the circumstances.

21. It is therefore concluded that the respondents did not violate the FOI Act as alleged.

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 January 9, 2019.



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:

GABRIEL FILER, 111 Pheasant Drive, Middletown, CT 06457

OFFICE OF THE CITY ATTORNEY, CITY OF BRIDGEPORT; AND CITY OF BRIDGEPORT, c/o Attorney Tamara Titre, Office of the City Attorney, 999 Broad Street, Bridgeport, CT 06604



Cynthia A. Cannata
Acting Clerk of the Commission