

DOCKET NO.: HHB-CV-23-6081763-S

CHIEF OF POLICE, CITY OF	:	SUPERIOR COURT
BRIDGEPORT, POLICE DEPARTMENT,	:	
CITY OF BRIDGEPORT, CITY OF	:	JUDICIAL DISTRICT OF
BRIDGEPORT	:	NEW BRITAIN
	:	
v.	:	TAX AND ADMINISTRATIVE
	:	APPEALS SESSION
	:	
FREEDOM OF INFORMATION	:	
COMMISSION, ET. AL	:	MAY 6, 2025

**MEMORANDUM OF DECISION**

The plaintiffs, the Chief of Police, City of Bridgeport, the Bridgeport Police Department, and the City of Bridgeport (together, Bridgeport), appeal from an August 9, 2023, final decision (the decision) of the defendant, the Freedom of Information Commission (the commission), ordering the disclosure of public records under the Connecticut Freedom of Information Act, see General Statutes § 1-200 et seq. (the act), related to the June 24, 1993 murder of Jose Rivera. See Return of Record (ROR), 255-265. This matter is the fourth appeal to come before this court on much the same issues. This court has previously issued three decisions dismissing appeals brought by Bridgeport seeking to prevent the disclosure of public records related to old and closed murder investigations. See *Chief of Police, City of Bridgeport v. Freedom of Info. Comm'n*, HHB-CV-23-6079418-S, 2024 WL 2720162 (Conn. Super. Ct. May 24, 2024), consolidated with *Chief of Police, City of Bridgeport v. Freedom of Info. Comm'n*, HHB-CV23-6079420-S (Conn. Super. Ct. May 24, 2024) (together “*Bridgeport I*”); *Chief of Police, City of Bridgeport, Police Department, City of Bridgeport v. Freedom of Information Commission*, HHB-CV-23-6078668-S, 2024 WL 3042370 (Conn. Super. Ct. June 12, 2024)) (“*Bridgeport II*”); *Chief of Police, City of Bridgeport v. Freedom*

Electronic notice sent to all counsel of record  
by A. Jordanopoulos, Ct officer on 5/6/25;  
1) D. Scalo and 2) MK Smith.

*of Info. Comm'n*, No. HHB-CV-23-6081745-S, 2025 WL 251740 (Conn. Super. Ct. Jan. 15, 2025) (“*Bridgeport IIF*”). The Appellate Court has also issued a controlling opinion deciding issues similar to the issues raised by Bridgeport in this appeal. See *City of Bridgeport v. Freedom of Info. Comm’n*, 222 Conn. App. 17, 304 A.3d 481 (2023), cert. denied, 348 Conn. 936, 306 A.3d 1072 (2024) (“*Bridgeport IV*”). Finally, Judge Klau issued a decision that is relevant to the issues presented in this appeal. See *Chief of Police, City of Bridgeport, Police Department, City of Bridgeport v. Freedom of Information Commission*, HHB-CV-20-6060495-S (Conn. Super. Ct. January 12, 2021) (“*Bridgeport V*”).

Presumably in light of the foregoing case law, at oral argument, Bridgeport withdrew its arguments with respect to all issues in this appeal, except for one issue under General Statutes § 1-210(b)(3)(A).<sup>1</sup> As to Bridgeport’s claim regarding the safety of witnesses, the court finds that there is substantial evidence in the record supporting the commission’s decision denying Bridgeport’s claimed exemption under § 1-210(b)(3)(A). Therefore, the court dismisses this appeal.

### FACTS

The administrative record before the court demonstrates the following facts as relevant to this memorandum of decision which, except where noted, are not in dispute.

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<sup>1</sup> To the extent Bridgeport argues that it has preserved any claims other than the issue under General Statutes § 1-210(b)(3)(A) addressed in this memorandum of decision, the court adopts the analysis set forth in *Bridgeport I* through *Bridgeport V* and dismisses any remaining claims.

On July 26, 2022, Attorney Evan Parzych filed a request (the request) under the act with Bridgeport seeking all documents relating to Bridgeport Police Department (the department) case number 93D-2221 and the department's investigation into the June 24, 1993 murder of Jose Rivera. ROR, 255. Attorney Parzych is a Deputy Assistant Public Defender with the Connecticut Innocence Project/Post Conviction Unit. On August 18, 2022, Attorney Parzych filed an appeal with the commission. ROR, 255. On June 9, June 12, and June 13, 2023, Bridgeport provided Attorney Parzych with some responsive documents. ROR, 256. Bridgeport nevertheless withheld some responsive documents under claimed exemptions (the subject records), including General Statutes § 1-210(b)(3)(A). ROR, 256, 258. On June 14, 2023, the commission held a hearing on the appeal. ROR, 255. On June 14, 2023, the commission reviewed the subject records *in camera*. ROR, 257. On August 9, 2023, the commission issued a final decision denying Bridgeport's claimed exemption under General Statutes § 1-210(b)(3)(A). See ROR, 258-59.

#### LEGAL STANDARD

"Our resolution of [administrative appeals] is guided by the limited scope of judicial review afforded by the Uniform Administrative Procedure Act; General Statutes § 4-166 et seq.; to the determinations made by an administrative agency. We must decide, in view of all of the evidence, whether the agency, in issuing its order, acted unreasonably, arbitrarily or illegally, or abused its discretion. . . . Even as to questions of law, the court's ultimate duty is only to decide whether, *in light of the evidence*, the agency has acted unreasonably, arbitrarily, illegally, or in abuse of its discretion. . . . Conclusions of law reached by the

administrative agency must stand if the court determines that they resulted from a correct application of the law to the facts found and could reasonably and logically follow from such facts. . . . Although the interpretation of statutes is ultimately a question of law . . . it is the well established practice of this court to accord great deference to the construction given a statute by the agency charged with its enforcement.” (Citations omitted; emphasis in original; internal quotation marks omitted). *Rocque v. Freedom of Information Commission*, 255 Conn. 651, 658, 774 A.2d 957 (2001).

“Our review of an agency’s factual determination is constrained by . . . § 4-183(j), which mandates that a court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court shall affirm the decision of the agency unless the court finds that substantial rights of the person appealing have been prejudiced because the administrative findings, inferences, conclusions, or decisions are . . . (5) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record. . . . This limited standard of review dictates that, with regard to questions of fact, it is neither the function of the trial court nor of this court to retry the case or to substitute its judgment for that of the administrative agency. . . . An agency’s factual determination must be sustained if it is reasonably supported by substantial evidence in the record taken as a whole.” (Citations omitted; internal quotation marks omitted). *Id.*, 658-59.

“It must be noted initially that there is an overarching policy underlying [the Freedom of Information Act] . . . favoring the disclosure of public records. . . . It is well established that the general rule under the act is disclosure, and any exception to that rule will be narrowly

construed in light of the general policy of openness expressed in the . . . legislation [comprising the act]. . . . The burden of establishing the applicability of an exemption clearly rests upon the party claiming the exemption. . . . This burden requires the claimant of the exemption to provide more than conclusory language, generalized allegations or mere arguments of counsel. Rather, a sufficiently detailed record must reflect the reasons why an exemption applies to the materials requested.” (Citations omitted; internal quotation marks omitted). *Id.*, 660-61.

### LEGAL ANALYSIS

Bridgeport argues that the commission’s conclusion that Bridgeport failed to sustain its burden to demonstrate that disclosure of certain of the subject records would endanger the safety of witnesses whose identities were not publicly known is against the weight of evidence. See General Statutes § 1-210(b)(3)(A). The court is not convinced.

To determine whether the commission applied the facts of this case to the well settled meaning of the exemptions laid out in § 1-210 (b), “[t]he appropriate standard of judicial review . . . is whether the commission’s factual determinations are reasonably supported by substantial evidence in the record taken as a whole.” (Internal quotation marks omitted.) *Bridgeport IV*, *supra*, 222 Conn. App. 67. In this case, Associate City Attorney Dina Scalo testified that she depended on internet searches and a review of case law and court filings to determine whether the identity of witnesses was publicly known. See ROR, 91-96. Neither Attorney Scalo nor anyone at Bridgeport has any firsthand or institutional knowledge as to whether any witnesses were publicly known at the time of the investigation into Mr. Rivera’s

murder, or whether they had become publicly known in the interceding 30 years since the investigation in 1993. See ROR, 91-92. There is no evidence in the record that Attorney Scalo or anyone at Bridgeport attempted to locate or contact any witnesses, or even knew if they were still alive. With respect to any possible danger a witness might face, Attorney Scalo presumed that “there is always an inherent risk of harm to witnesses in [the] investigation of a crime.” ROR, 95. Attorney Scalo also testified that the records themselves contained explicit indications that some witnesses were afraid for their safety.<sup>2</sup> Id. Attorney Scalo did not testify that she considered the fact that approximately 30 years had passed since the original investigation into Mr. Rivera’s murder and how that fact might affect any possible threats a witness might face.

In *Bridgeport IV*, the Appellate Court found that “[t]he burden of proving the applicability of an exemption under the act ‘requires the claimant of the exemption to provide more than conclusory language, generalized allegations or mere arguments of counsel. Rather, a sufficiently detailed record must reflect the reasons why an exemption applies to the materials requested.’ . . . For this reason, ‘generalized claims of a possible safety risk do not satisfy the plaintiffs’ burden of proving the applicability of an exemption from disclosure under the act.’” (Citation omitted.) *Bridgeport IV*, supra, 222 Conn. App. 69-70; see also *New Haven v. Freedom of Information Commission*, 205 Conn. 767, 776, 535 A.2d 1297 (1988) (“[T]he claimant of the exemption [must] provide more than conclusory language,

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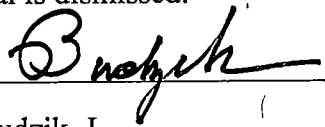
<sup>2</sup> For clarity, the court notes that it reviewed the subject records *in camera*. Two witnesses expressed fear of reprisal if they cooperated with police.

generalized allegations or mere arguments of counsel. Rather, a sufficiently detailed record must reflect the reasons why an exemption applies to the materials requested.”).

Here, the court finds that there is substantial evidence in the record supporting the commission’s factual conclusion that Bridgeport failed to carry its burden of demonstrating the applicability of the exemption set forth in § 1-210(b)(3)(A). First, there is no direct, specific evidence in the record below that the witnesses referred to in the subject records were unknown at the time of the investigation and/or have remained so over the succeeding 30 years. Bridgeport simply assumed that if Attorney Scalo could find no record of the disclosure of a witness’ name some 30 years later using, primarily, internet searches, that such must be the case. Such evidence is little more than supposition and the commission is permitted not to credit that evidence. Second, while there are some references in the subject records to fear of retaliation by some witnesses at the time of the investigation, there is no evidence whatsoever in the record that any such fears or threats remain 30 years later. Again, Bridgeport offered no direct, specific evidence that any witness remained fearful of the disclosure of their identities today, 30 years after the original investigation. Therefore, this court finds that the commission’s finding that Bridgeport failed to prove the applicability of § 1-210 (b)(3)(A) is reasonably supported by substantial evidence in the record.

#### CONCLUSION

For all the foregoing reasons, this appeal is dismissed.

  
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Budzik, J.