

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Joseph Lagosz,

Complainant

against

Docket # FIC 2020-0055

Commissioner, State of Connecticut,  
Department of Transportation; and State of  
Connecticut, Department of Transportation,

Respondents

February 10, 2021

The above-captioned matter was heard as a contested case on October 22, 2020, at which time the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint.

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 January 31, 2020, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to disclose all records responsive to his request for certain public records.
3. It is found that, by letter dated December 2, 2019, the complainant requested that the respondents provide him with the following records:

Copies of all electronic documents in the taking of the Lagosz property at 468 Norton Lane in Berlin, Conn., but the Connecticut DOT. Project / File No.:170-3155-044. Including, but not limited to, emails, voice mail, text messages, meeting minutes, interoffice communications, outside vendor communications, Connecticut legislature, attorney's [sic] etcetera.

I am also requesting access to all hard documents, including, but not limited to, emails, voice mail, text messages, meeting minutes, interoffice communications, outside vendor communications, Connecticut legislature, attorney's [sic] etcetera.

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, 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 found that the records described in paragraph 3, above, to the extent such records exist, are public records within the meaning of §§1-200(5), 1-210(a) and 1-212(a), G.S.

8. It is found that the respondents acknowledged the complainant’s request in an email dated December 2, 2019. The respondents notified the complainant that disclosure of the requested records could take several weeks.

9. It is found that on December 5, 2019, the respondents sent the complainant a compact disc that contained 643 pages of emails and 44 other documents responsive to the complainant’s request. The records covered a period up to May 2015.

10. It is found that on December 13, 2019, the complainant responded to the respondents’ December 2, 2019, message providing clarification on the scope of his request. The complainant informed the respondents that the records he was seeking included all records before and after May 2015. This date is in reference to a previous FOI request made by the complainant in which records related to the *decision* to take the complainant’s property were disclosed.

11. It is found that on December 16, 2019, the respondents sent an email to the complainant stating that all paper documents were scanned into the respondents’ rights of way management system. Therefore, the respondents had no reason to believe there were any paper documents to be disclosed except for email messages that may not have been scanned into the

management system.

12. It is found that on May 13, 2020, the respondents provided the complainant with a compact disc that contained approximately 1,200 emails and approximately 700 pages of other records responsive to his request. The records covered the time period after May 2015.

13. It is found that in an email dated July 8, 2020, the respondents explained to the complainant that their search for responsive records included a search of the respondents' electronic records management system as well as an e-discovery search request through the Department of Administrative Services. The respondents email reported that they recently discovered two voicemails on the personal cell phone of an employee that was responsive to the complainant's request but had not been previously disclosed. It is found that the two voicemails were provided to the complainant via electronic attachment to the July 8, 2020, email. Additionally, the respondents confirmed that a query of their personnel involved in the taking of the complainant's property revealed no additional voice mails or any text messages responsive to the complainant's request.

14. It is found that in an email dated October 20, 2020, the respondents informed the complainant that in preparation for the hearing on this matter, they discovered 137 pages of records that may not have been previously disclosed. The respondents attached the records to the email for the complainant's review.

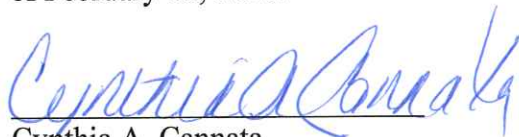
15. At hearing, the complainant was unable to identify any specific records that he believed were in the possession of the respondents that were not disclosed to him. However, the complainant questioned why documents related to litigation and an "Audubon hearing" were not among the records he received. The respondents explained that any of the documents specifically related to litigation of the matter would be maintained by the attorney general's office as they provided legal representation of the respondents during such litigation.

16. It is found that the respondents disclosed all records responsive to the complainant's request. Accordingly, it is concluded that the respondents did not violate the FOI Act 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 complainant is 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:

**JOSEPH LAGOSZ**, 487 Jerome Avenue, Burlington, CT 06013

**COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF TRANSPORTATION; AND STATE OF CONNECTICUT, DEPARTMENT OF TRANSPORTATION**, c/o Attorney Paula Jean Yukna, Department of Transportation, 2800 Berlin Turnpike, Newington, CT 06111



Cynthia A. Cannata  
Acting Clerk of the Commission