

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Len Suzio,

Complainant

against

Docket # FIC 2020-0078

Governor, State of Connecticut, Office of
the Governor; and State of Connecticut,
Office of the Governor,

Respondents

January 13, 2021

The above-captioned matter was heard as a contested case on October 29, 2020, at which time the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint. Due to the COVID-19 pandemic and the state's response to it, the hearing was conducted telephonically.¹

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 14, 2020, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide him with copies of all responsive records.
3. It is found that, by email dated December 9, 2019, the complainant requested that the respondents provide him with copies of records pertaining to the "Truck Tolling Only" version of the CT 2030 Transportation Plan.

4. It is found that, on or about February 14, 2020, the respondents provided the complainant with records they believed to be responsive to his request.

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 section 1-218, whether such

¹ On March 14, 2020, the Governor issued Executive Order 7B, which suspended the requirement to conduct public meetings in person.

data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

6. 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.

7. 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.”

8. It is concluded that the records described in paragraph 3, above, are public records within the meaning of §§1-200(5), 1-210(a) and 1-212(a), G.S.

9. During the hearing, the complainant contended that while the respondents had provided him with copies of records, he did not believe that all responsive records had been provided. The respondents contended that all responsive records had been provided and that no records, in whole or in part, were withheld.

10. It is found that on or about January 9, 2020, the respondents assigned Associate General Counsel Walter Menjivar to review and respond to the complainant’s request. It is further found that Attorney Menjivar reviewed the request and forwarded it to the Governor’s Director of Policy, Jonathan Dach, and Senior Advisor, Jonathan Harris, both of whom were involved with the respondents’ plans and recommendations related to tolls.

11. It is found that any responsive records maintained by the respondents were provided to the complainant. It is further found that both Mr. Dach and Mr. Harris advised Attorney Menjivar that other state agencies could have records responsive to the complainant’s request, such as the Department of Transportation or the Office of Policy and Management.

12. Based on the credible testimony of the respondents, it is found that the respondents do not maintain any additional records responsive to he described in paragraph 3, above; rather, it is possible that records could be maintained by other state agencies, such as the Department of Transportation and Office of Policy Management.

13. The complainant requested that this Commission order the respondents to retrieve any responsive records from other state agencies. However, under the FOI Act, the respondents do not have a duty to retrieve records of other state agencies in response to a public records request. See James A. Lash, First Selectman of the Town of Greenwich, et al. v. Freedom of Information Commission, et al., 116 Conn. App. 171, 187 (2009) (as distinct agencies, the first

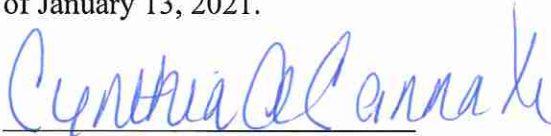
selectman had no duty to maintain or make available the records of the town's law department, and the law department had no duty to maintain or make available the records of the first selectman), and Chikara v. Governor, State of Connecticut, Docket #FIC 1996-556 (August 27, 1997) (the responsibility to provide copies of records rests with the individual agency which maintains and has custody of the requested records).

14. Based on the foregoing, it is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S. 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 hereby dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of January 13, 2021.



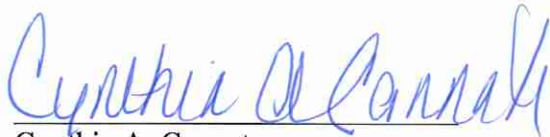
Cynthia A. Cannata
Acting Clerk of the Commission

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:

LEN SUZIO, 35 Lydale Place, Meriden, CT 06450

**GOVERNOR, STATE OF CONNECTICUT, OFFICE OF THE GOVERNOR; AND
STATE OF CONNECTICUT, OFFICE OF THE GOVERNOR**, c/o Assistant Attorney
General Phillip Miller, Office of the Attorney General, 165 Capitol Avenue, Hartford, CT 06106



Cynthia A. Cannata
Acting Clerk of the Commission