

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Louis DiMuzio,

Complainant

against

Docket #FIC 2021-0496

Chief, Fire Department, Town of Prospect;
Fire Department, Town of Prospect; and
Town of Prospect,

Respondents

August 10, 2022

The above-captioned matter was heard as a contested case on February 3, 2022, and May 26, 2022, at which times the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint. Due to the COVID-19 pandemic and the state's response to it, the hearings were conducted through the use of electronic equipment (remotely) pursuant to §149 of Public Act 21-2 (June Spec. Sess.), as amended by §1 of Public Act No. 22-3.

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. It is found that, by email dated August 3, 2021, the complainant requested from the respondents, records related to a residential fire that occurred on April 5, 2013 (the "fire"). Specifically, the complainant requested:
 - (a) a copy of former Fire Chief Keith Griffen's October 7, 2016 deposition;
 - (b) any and all exhibits, run reports, and photographs provided by the Town of Prospect for the October 7, 2016 deposition;
 - (c) fire reports filed by Tony Munroz, Nelson Abarzua, and/or Robert Chattfield, as well as any fire reports created by the following towns or cities: Beacon Falls, Waterbury, Middlebury, Woodbridge or Washington Depot;

- (d) any and all documents and correspondence between and among seven individuals regarding the fire;
- (e) any and all photos or videos taken at the scene of the fire;
- (f) any and all documents regarding the number of CO2 packs or canisters used by the Prospect Fire Department between 4:35-5:15 pm on the day of the fire;
- (g) a copy of "CT FIRE -EMS.com" dated April 5, 2013;
- (h) copies of any and all "interior/exterior security/satellite /surveillance" or other videos from the fire;
- (i) any and all documents provided by the Prospect Fire Department substantiating the "400 million dollar insured value" of the complainant's home to the insurance company;
- (j) any and all copies of emails to and from State Farm Insurance executives with Town of Prospect officials who refused to provide the "400 million insured substantiation" to the insurance company;
- (k) a copy of any and all Town of Prospect documentation as to the substantiation of the value of Louis Nichole dolls per the Fire Department;
- (l) copies of any and all documents or maps showing all fire hydrants installed by the Town of Prospect;
- (m) any and all copies of correspondences or texts with the CT Water Company from 6:06-6:25 pm, on April 5, [2013], regarding which fire hydrant supply would be best utilized in order to fight the fire;
- (n) copies of any and all documents, photographs, or videos placed on the Prospect Fire Department website from 2013-2014 regarding the fire;
- (o) copies of any and all Town of Prospect documents, orders, emails, texts, or other correspondence for firefighters onsite at the fire regarding orders to build "portable ponds" at the bottom of the complainant's driveway;

- (p) a copy of fire reports by Anthony Richard and/or Bill Scarpati; and
- (q) any and all documentation or records where the complainant was, at any time, referred to as a “F@#%ing faggot” by any responders at the fire.

3. It is found that, by email dated August 4, 2021, the town respondent acknowledged the request described in paragraph 2, above.

4. By letter of complaint, dated August 27, 2021, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide the records, described in paragraph 2, above.

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 1-218, whether such data or information be handwritten, typed, tape-recorded, videotaped, printed, photostated, photographed or recorded by any other method.

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

[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: “[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 found that the requested records, to the extent they exist and are maintained by the respondents, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

9. At the start of the contested case hearing, the complainant withdrew his complaint with regard to the requests described in paragraphs 2.l and 2.p, above.

10. In addition, the complainant contended that, although he received some records responsive to his request, there should be more responsive records.

11. With regard to the request for records from the town, it is found that the complainant's request was forwarded to the mayor's office and that the complainant was only requesting records from the mayor or his office.

12. It is found that, by letter dated September 29, 2021, the town respondent informed the complainant that it did not maintain any records responsive to the request.

13. The complainant contended that, even if the mayor and his office did not maintain records responsive to the request, the mayor still had a duty on behalf of the town to retrieve responsive records from other town departments and disclose copies of such records to him.

14. Mayor Robert Chatfield appeared and testified at the contested case hearing on behalf of the town.

15. It is found, that neither he nor his office maintains any records responsive to the request set forth in paragraph 2, above. The mayor further testified that, based on his experience, any additional records that still exist would likely be maintained by the Fire Marshal for the town.

16. Despite the complainant's contention that the mayor, upon realizing that neither he nor his office maintained records responsive to the request, should have reached out to other town departments to retrieve and make available copies of any existing responsive records, the mayor had no such obligation. See Lash, et al. v. FOIC, et al., 300 Conn. 511, 521-522 (2001) (affirming appellate court's determination that one public agency has no duty to make available the records of another public agency).¹

17. It is therefore concluded that the respondent town did not violate the FOI act, as alleged in the complaint.

18. Former Fire Chief William Lauber appeared and testified at the contested case hearing on behalf the fire department respondents.

19. It is found that, by letter dated November 12, 2021, the fire department respondents acknowledged the complainant's request.

20. It is found that the Prospect Fire Department is a volunteer-based fire department and a private corporation that is separate and distinct from both the town and the Town of Prospect Fire Marshal. It is also found that at the time of the fire, the respondent fire department did not have or use email for official business.

21. It is further found that, upon receipt of the request described in paragraph 2, above, Former Fire Chief Lauber instructed his secretary to search for any and all records responsive to such request. Chief Lauber testified, and it is found, that the respondent fire department

¹ The Commission notes that copies of records responsive to the complainant's request described in paragraph 2.h, above, were provided to the complainant by a different town department in response to a separate FOI request.

conducted a thorough search of all locations where responsive records would be stored and located all records related to the fire in a single file that was then provided to the complainant. Chief Lauber further testified that, based on his experience, any additional records that still exist would likely be maintained by the Fire Marshal for the town.

22. It is found that, other than the file that was disclosed to the complainant, the fire department respondents do not maintain any additional responsive records.

23. It is therefore concluded that the fire department respondents did not violate the FOI act, as alleged in the complaint.

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 August 10, 2022.



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:

LOUIS DIMUZIO, 54 New Haven Road, Prospect, CT 06712

CHIEF, FIRE DEPARTMENT, TOWN OF PROSPECT; FIRE DEPARTMENT, TOWN OF PROSPECT, c/o Attorney Ronald J. Pugliese, 26 New Haven Road, Prospect, CT 06712; **AND TOWN OF PROSPECT**, c/o Attorney David S. Hardy, Carmody Torrance Sandak & Hennessey LLP, 195 Church Street, PO Box 1950, New Haven, CT 06509-1950



Cynthia A. Cannata
Acting Clerk of the Commission