

STATE OF CONNECTICUT
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by

FINAL DECISION

Richard Taff,

Complainant

against

Docket # FIC 2022-0088

State Fire Marshal, State of Connecticut,
Office of the State Fire Marshal; State of
Connecticut, Office of the State Fire
Marshal; and State of Connecticut,
Department of Administrative Services,

Respondents

August 10, 2022

The above-captioned matter was heard as a contested case on June 20, 2022, at which time 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 hearing was conducted through the use of electronic equipment (remotely) pursuant to §149 of Public Act 21-2 (June Special Session), as amended by §1 of Public Act 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 letter dated January 4, 2022, the complainant requested that the respondent State Fire Marshal provide him with copies of:

[a]ny written communications, including but not limited to letters, memos, and emails:

[s]ent by the Department of Administrative Services and/or the Office of the State Fire Marshal, or an agent or employee of said department or office, to the Office of the Legislative Management or an agent or employee thereof, including but not limited to, James Tracy, Eric Connery or James Tamburro, since March 4, 2018, concerning the abatement or remediation of violations of the Connecticut State Fire Safety Code at the State Capitol and/or the Legislative Office Building, including, but not limited to, the written communications approving the modifications made to abate or remediate the violations.

3. It is found that, by email dated January 20, 2022, the complainant inquired about the status of his records request.

4. By letter of complaint filed February 18, 2022, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide him with the requested records, as described in paragraph 2, above.

5. It is found that, on March 24, 2022, the respondents sent the complainant a link to a shared electronic storage drive, which contained several responsive records. It is further found that sometime thereafter, but prior to the hearing in this matter, the respondents added additional responsive records to that drive and informed the complainant that they had done so.

6. 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, videotaped, printed, photostated, photographed or recorded by any other method.

7. 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.

8. 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.”

9. It is found that the records described in paragraph 2, above, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

10. At the hearing, the complainant contended that the respondents’ search for the requested records was not thorough and that the respondents should maintain more responsive records than they provided. The respondents argued that they conducted a thorough and exhaustive search for all responsive records and that they provided the complainant with all responsive records that they maintain.

11. With respect to the respondents' search for hardcopy records responsive to the complainant's request, the Fire and Life Safety Supervisor ("Supervisor") for the respondent Office of the State Fire Marshal ("OSFM") testified, and it is found, that approximately two years ago, the OSFM converted all hardcopy records into digital format and that the OSFM now maintains those records in an electronic database. The Supervisor testified, and it is found, that he searched that database for responsive records and provided all such records to the complainant.

12. With respect to the respondents' search for emails responsive to the complainant's request, it is found that the OSFM employs approximately twelve individuals, only two of whom testified at the hearing. The Supervisor testified, and it is found, that he searched his email account for responsive records and provided all such records to the complainant. However, the respondent State Fire Marshal testified, and it is found, that he did not search his email account for responsive records. It is further found that the respondents failed to produce any evidence as to whether the other ten employees of the OSFM searched their email accounts for responsive records, and what records, if any, they located.

13. It is found that the respondents did not conduct a thorough search for responsive records. Under the facts and circumstances of this case, it is found that the respondents failed to prove that they provided all responsive records to the complainant.

14. Based upon the foregoing, it is concluded that the respondents violated §§1-210(a) and 1-212(a), G.S.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. Within one week of the date of the Notice of Final Decision in this matter, the respondents shall perform a diligent and thorough search for all emails responsive to the request, described in paragraph 2, above, and provide an affidavit to the complainant and to the Commission detailing the nature and scope of the search. If no responsive records are located, the respondents shall so state in the affidavit. If responsive records are located, the respondents shall so state in the affidavit and immediately provide a copy of such records to the complainant, free of charge.

2. Henceforth, the respondents shall strictly comply with §§1-210(a) and 1-212(a), G.S.

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:

RICHARD TAFF, 1 Chestnut Hill Terrace, Glastonbury, CT. 06033

STATE FIRE MARSHAL, STATE OF CONNECTICUT, OFFICE OF THE STATE FIRE MARSHAL; STATE OF CONNECTICUT, OFFICE OF THE STATE FIRE MARSHAL; AND STATE OF CONNECTICUT, DEPARTMENT OF ADMINISTRATIVE SERVICES, c/o Attorney Michael Barrera, Department of Administrative Services, 450 Columbus Avenue, Suite 1501, Hartford, CT 06103



Cynthia A. Cannata
Acting Clerk of the Commission