

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Ethan Book,

Complainant

against

Docket # FIC 2020-0241

Christopher Rosario, State Representative,  
State of Connecticut, General Assembly;  
and State of Connecticut, General  
Assembly,

Respondents

January 26, 2022

The above-captioned matter was heard as a contested case on June 30, 2021, 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.<sup>1</sup> It is of note that the case caption has been corrected to more accurately reflect the parties in this matter.

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 May 15, 2020, the complainant requested that the respondents provide him with "your complete list of email contacts."
3. By letter of complaint filed June 1, 2020,<sup>2</sup> the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by denying his request for the records described in paragraph 2, above.
4. At the time of the request, §1-200(5), G.S., provided:

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

<sup>2</sup> On March 25, 2020, the Governor issued Executive Order 7M, thereby suspending the provisions of Conn. Gen. Stat. Sec. 1-206(b)(1), which requires the Freedom of Information Commission to hear and decide an appeal within one year after the filing of such appeal. Executive Order 7M is applicable to any appeal pending with the Commission on the issuance date and to any appeal filed on or after such date, through June 30, 2021. Consequently, the Commission retains jurisdiction.

“[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.<sup>3</sup>

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. At the hearing, the hearing officer raised the issue of whether a list of email addresses constituted a “public record” as defined in §1-200(5), G.S. Such issue was raised in light of the fact that in the past, the Commission has found that email addresses associated with certain correspondence to a legislator were not public records based on the character of the correspondence.

8. The hearing officer directed the parties to submit post-hearing briefs specifically addressing whether a list of email addresses as requested in this matter, are public records as defined in §1-200(5), G.S.

9. In the respondents’ post-hearing brief, the respondents cited the final decision rendered by the Commission in Docket #FIC 2013-194, David Godbout v. Anthony Guglielmo and Kevin Witkos, as members, State of Connecticut, Connecticut State Senate (March 12, 2014). In Godbout, the Commission determined that email addresses associated with correspondence received by the respondents in that matter, do not reveal whether the author was a constituent of a particular legislator, or even whether the author was a resident of Connecticut. Moreover, it was found that such information is not provided intentionally and voluntarily, but instead appears automatically upon sending an e-mail. Further, it was found that personal e-mail addresses are not widely available elsewhere. The Commission ultimately concluded that in Godbout, because the correspondence associated with the email addresses did not pertain to the legislator’s role as lawmaker, that such email addresses were not public records and therefore not subject to disclosure.

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<sup>3</sup> Public Act 21-2 (June Sp. Sess.) amended §1-200(5), G.S., to add the word “videotaped” to the definition of public records or files. Effective June 23, 2021.

10. Godbout was a very fact specific decision and is distinguished from the instant matter in which the complainant is seeking only the email addresses maintained by the respondents unrelated to any particular constituent correspondence. Under the facts of this case, it is concluded that the records requested by the complainant are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

11. It is found that on August 24, 2020, after this appeal was filed, the respondents disclosed all of the responsive records to the complainant. Accordingly, it is concluded that the respondents did not violate the disclosure provisions of §§1-210(a) or 1-212(a), G.S., as alleged by the complainant.

12. At the hearing in this matter, the complainant raised the issue of promptness. The Commission has held that the meaning of the word “promptly” is a particularly fact-based question. In Advisory Opinion #51, In the Matter of a Request for Declaratory Ruling, Third Taxing District of the City of Norwalk, Applicant (Notice of Final Decision dated January 11, 1982), the Commission opined that the word “promptly,” as used in the Act, means quickly and without undue delay, taking into consideration all of the factors presented by a particular request. The Advisory Opinion provides that some of the factors to be considered are (i) the volume of records requested, (ii) the amount of personnel time necessary to address the request, (iii) the timeframe under which the requestor needs the information, (iv) the importance of the records to the requestor, (v) time constraints placed on the agency by other work, and (vi) the importance of other pressing work at the agency. Additionally, the Commission provides the following guidance:

Providing such access is therefore a primary duty of all public agencies and should be considered as much a part of their mission as their other major functions. Although each agency must determine its own set of priorities in dealing with its responsibilities within its limited resources, providing access to public records should be considered as one such priority. Thus, it should take precedence over routine work that has no immediate or pressing deadline.

13. Several Superior Court decisions have found the Commission’s interpretation of the promptness standard reasonable. See Commissioner, Department of Emergency Services and Public Protection v. Freedom of Information Commission, Superior Court, judicial district of New Britain, Docket No. CV-18-6047741-S (July 2, 2020, Cordani, J); Torlai v. Freedom of Information Commission, Superior Court, judicial district of New Britain, Docket No. CV-16-5017450-S (November 27, 2017, Huddleston, J.); and Smith v. Freedom of Information Commission, Superior Court, judicial district of New Britain, Docket No. CV-12-5015684-S (June 7, 2013, Cohn, J.)

14. It is found that Attorney Desjardins, respondents’ counsel, was responsible for coordinating the response to the complainant’s request. It is found that at the time of the complainant’s request the state was in the early weeks of the COVID-19 pandemic and all staffers were directed to stay out of the building and as a result all staffers was working remotely. It is found that Attorney Desjardins was the only attorney in the office and was responsible for addressing the needs of the entire caucus. Additionally, it is found that Attorney Desjardins was

engaged in higher priority matters directly addressing the COVID crisis such as the interpretation and deciphering of executive orders being issued by the Governor's office. Further, it is found that Attorney Desjardins was preparing for July and September special legislative sessions and spent hundreds of hours engaged in negotiation and rule-making in preparation for such sessions. Finally, it is found that Attorney Desjardins was also responsible for coordinating the responses to other freedom of information requests.

15. It is found that under the circumstances of this case, the respondents' disclosure of the requested records on August 24, 2020, was prompt. Therefore, it is concluded that the respondents did not violate the promptness provisions of §§1-210(a) and 1-212(a), G.S., 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 complaint is dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of January 26, 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:

**ETHAN BOOK**, 144 Coleman Street, Bridgeport, CT 06604

**CHRISTOPHER ROSARIO, STATE REPRESENTATIVE, STATE OF CONNECTICUT, GENERAL ASSEMBLY; AND STATE OF CONNECTICUT, GENERAL ASSEMBLY,**  
c/o Attorney David Desjardins, State of Connecticut, General Assembly, 300 Capitol Ave,  
Hartford, CT 06106



Cynthia A. Cannata  
Acting Clerk of the Commission