

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Altia Lawrence-Bynum,

Complainant

against

Docket # FIC 2020-0326

Water Pollution Department, City of
Waterbury; and City of Waterbury,

Respondents

January 26, 2022

The above-captioned matter was heard as a contested case on August 4, 2021, and October 26, 2021. The complainant and the respondent appeared at the initial hearing on August 4, 2021, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint. At the complainant's request, the hearing was continued to allow for the testimony of a witness who was not present at the August 4th hearing. At the continued hearing held on October 26, 2021, the respondents appeared with that witness, who provided additional testimony; however, the complainant failed to appear.

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 Sp. Sess.).

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 four separate forms, each dated June 3, 2020, the complainant requested from the respondents, a copy of:
 - a. the sewage lines maps/survey/plans for the area of 389 Berkeley Ave and Wall Street in Waterbury;
 - b. the history of sewage line flushing or cleaning for the line which runs in front of...389 Berkeley Ave, Waterbury;

c. the full report from the sewer department dated on or around April 16 to 18, 2020, for the sewage back up for the property of 389 Berkeley Ave in Waterbury; and

d. land records (map) for 389 Berkeley Ave in Waterbury.

3. It is found that the complainant hand-delivered the requests, described in paragraph 2, above, to the city clerk on or about June 3, 2020, and that the city clerk thereafter uploaded such requests into the city's online portal known as GOVQA.

4. It is found that Attorney Richard Scappini in the office of Corporation Counsel was assigned to coordinate the response to the requests at issue. It is found that on June 5, 2020, the respondents provided a copy of a map responsive to the request described in paragraph 2.a., above, and on June 26, 2020, the respondents provided other responsive records by uploading such records to the online portal.

5. It is found that, on June 26, 2020, the complainant informed Attorney Scappini that she was unable to access the records in the online portal. It is found that Attorney Scappini attempted, unsuccessfully, to assist her with obtaining access. Attorney Scappini then made physical copies of the responsive records and mailed them to the complainant on or about June 30, 2020.

6. By email dated July 13, 2020,¹ the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information Act by failing to comply with her requests, described in paragraph 2, above.

7. At the time of the request, §1-200(5), G.S., provided:

“[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.²

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

¹ On March 25, 2020, the Governor issued Executive Order 7M, thereby suspending the provisions of Conn. Gen. Stat. §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 over this matter.

² Section 147 of Public Act 21-2 (June Sp. Sess.) amended the definition of “public records or files” to also include data or information that is “videotaped”.

[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.

9. 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.”

10. It is found that the records described in paragraph 2, above, are public records within the meaning of §§1-200(5), 1-210(a) and 1-212(a), G.S.

11. It is found that, in or around July 2021, the respondents located four pages of additional responsive records and provided such records to the complainant. At the hearing in this matter, the complainant acknowledged that the respondents provided responsive records to her; however, she claimed that the respondents should maintain additional responsive records.

12. With respect to the request, described in paragraph 2.a., above, it is found that the respondents conducted a thorough search for responsive records and located one map, a copy of which they provided to the complainant. It is found that the respondents provided all records they maintain that are responsive to this request.

13. With respect to the request, described in paragraph 2.b., above, it is found that the respondents conducted a thorough search for responsive records and located one record, consisting of a logbook entry for an April 16, 2020 incident that occurred at the complainant’s home. It is found that such record was provided to the complainant. Although the complainant argued that additional records pertaining to flushing and cleaning should exist, it is found that the respondents provided to the complainant all responsive records they maintain.

14. With respect to the request, described in paragraph 2.c., above, it is found that the respondents conducted a thorough search for responsive records and located an incident report relating to the April 16, 2020 incident. Such report was provided to the complainant. At the hearing, the complainant took issue with the content of the report, claiming that such report should describe the steps the city took to remedy the problem that occurred on April 16, 2020 at the complainant’s home. However, the FOI Act does not govern the content of public records, and therefore the Commission lacks jurisdiction to address this issue. It is found that the respondents provided all records they maintain that are responsive to this request.

15. With respect to the request, described in paragraph 2.d., it is found that the respondents conducted a thorough search for such record, and located the requested land record, a copy of which was provided to the complainant. The complainant stated at the hearing in this matter, however, that she intended to request a map of her property from the city assessor’s

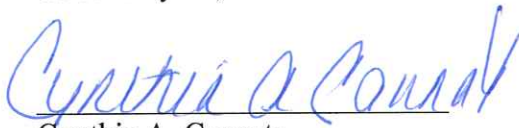
office, not the land record. However, it is found that the respondents provided to the complainant the map she requested.

16. Based upon the foregoing, it is found that the respondents did not violate §§1-210(a) or 1-212(a), G.S., 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 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:

ALTIA LAWRENCE-BYNUM, 389 Berkley Avenue, Waterbury, CT 06704

WATER POLLUTION DEPARTMENT, CITY OF WATERBURY; AND CITY OF WATERBURY, c/o Attorney Kevin J. Daly, Office of Corporation Counsel, 235 Grand Street, 3rd Floor, Waterbury, CT 06702



Cynthia A. Cannata
Acting Clerk of the Commission