

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

James Nugent and  
the Town of Trumbull,

Complainants

against

Docket #FIC 2021-0459

Water Pollution Control  
Authority, City of Bridgeport;  
and City of Bridgeport,

Respondents

July 27, 2022

The above-captioned matter was heard as a contested case on January 24, 2022, and June 3, 2022, at which times the complainants 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 hearings were 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. The case caption has been amended to reflect the correct department within the City of Bridgeport which maintains the records at issue.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. It is found that the respondents are public agencies within the meaning of §1-200(1), G.S.

2. It is found that by letter dated May 14, 2021, and addressed to the respondent Office of the City Attorney, complainant James Nugent, on behalf of the complainants, made a request to the respondents for copies of the following records:

Item 1 Westside WPCF WW ADF, mgd  
Item 2 Westside WPCF Max Day, mgd  
Item 3 Westside WPCF Max Month, mgd  
Item 4 Westside WPCF Peak Hour, mgd

Item 5 Eastside WPCF WW ADF, mgd  
Item 6 Eastside WPCF Max Day, mgd  
Item 7 Eastside WPCF Max Month, mgd

Item 8 Eastside WPCF Peak Hour, mgd  
Item 9 West Side Collection System CSO Volume, Mgal  
Item 10 West Side WPCF Bypass Volume, Mgal  
Item 11 East Side Collection System CSO Volume, Mgal/yr  
Item 12 East Side WPCF CSO Volume, Mgal/yr

Item 13 Total Water Use, Mccf/yr  
Item 14 Bridgeport Water Use, Mccf/yr  
Item 15 Trumbull Water Use, Mccf/yr  
Item 16 Other Water Use, Mccf/yr

Item 17 WPCA Expenditures (w/line items)

Item 18 Bridgeport WPCA Budget (w/line items)

Item 19 Bridgeport Sewer Rate for Trumbull, \$/ccf.  
("May 14<sup>th</sup> request").

It is found that the May 14<sup>th</sup> request sought records of the City of Bridgeport Water Pollution Control Authority ("WPCA") for "the time period of the last five (5) fiscal years for the City of Bridgeport and the current year's budget." It is found that the WPCA is a department of the respondent City of Bridgeport.

3. It is found that by letter dated May 19, 2021, the respondents acknowledged the May 14<sup>th</sup> request.

4. It is found that by separate letters dated June 15, 2021, and July 7, 2021, the complainants renewed their May 14<sup>th</sup> request.

5. It is found that by letter dated July 8, 2021, the respondents informed the complainants that they were in the process of reviewing and retrieving records responsive to the May 14<sup>th</sup> request, and that such request had not been denied.

6. It is found that by separate letters dated July 22, 2021, and August 9, 2021, the complainants renewed their May 14<sup>th</sup> request and disputed the respondents' assertion that such request had not been denied.

7. By email received August 23, 2021, the complainants appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to promptly provide them with copies of the records described in paragraph 2, above. The complainants requested that the Commission award attorney's fees and costs, among other remedies.

8. At the time of the May 14<sup>th</sup> 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.<sup>1</sup>

9. 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.

10. Section 1-212(a), G.S., provides, in relevant part, that “any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

11. It is found that the requested records are public records within the meaning of §§1-200(5), 1-210(a) and 1-212(a), G.S.

12. It is found that between January 24, 2022, and March 20, 2022, the respondents provided the complainants with approximately 700 pages of records responsive to the May 14<sup>th</sup> request.

13. At the June 3, 2022 hearing, the complainants testified that the only remaining issue in this matter was the respondents’ failure to provide responsive records promptly.

14. The Commission has previously opined 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 advised that the word “promptly,” as used in §1-210(a), G.S., means quickly and without undue delay, taking into consideration all of the factors presented by a particular request. The advisory opinion goes on to describe some of the factors that should be considered in weighing a request for records against other priorities: the volume of records requested; the time and personnel required to comply with a request; the time by which the person requesting records needs them; the time constraints under which the agency must complete its other work; the importance of the records to the requester, if ascertainable; and the importance to the public of completing the other agency business without the loss of the personnel time involved in complying with the request.

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<sup>1</sup> Section 147 of Public Act 21-2 (June Sp. Sess.) amended the definition of “[p]ublic records or files” to also include data or information that is “videotaped”.

15. It is found that the WPCA did not receive a copy of the May 14<sup>th</sup> request until August 2021. It is found that the General Manager of the WPCA, who oversees the processing of requests for WPCA records, was not aware of the May 14<sup>th</sup> request until October 2021. It is found that once the General Manager was aware of such request, she and several other WPCA staff members spent several weeks searching for and compiling records responsive to such request.

16. At the June 3, 2022 hearing, Lauren McBennett Mappa, the WPCA's General Manager, testified that, between August 2021 and March 2022, the delay in responding to the May 14<sup>th</sup> request was due, in part, to the scope of the request, the volume of responsive records, staff vacation, staffing changes, and a technological "glitch". Nevertheless, it is found that a delay of seven months from the date of the request to the date that the first records were provided was not prompt.

17. It is found that the respondents' response to the May 14<sup>th</sup> request was not prompt.

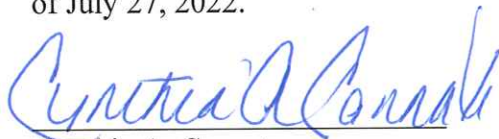
18. Based on the facts and circumstances of this case, it is concluded that the respondents violated the promptness provisions §§1-210(a) and 1-212(a), G.S.

19. Notwithstanding the conclusion in paragraph 18, above, the Commission in its discretion declines to order the various remedies requested by the complainants as described in paragraph 7, above.

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

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

Approved by Order of the Freedom of Information Commission at its regular meeting of July 27, 2022.



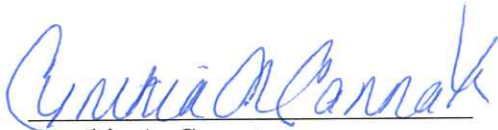
Cynthia A. Cannata  
Acting Clerk of the Commission

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:

**JAMES NUGENT AND THE TOWN OF TRUMBULL**, Harlow, Adams & Friedman,  
P.C., One New Haven Avenue, Suite 100, Milford, CT 06460

**OFFICE OF THE CITY ATTORNEY, CITY OF BRIDGEPORT; AND CITY OF BRIDGEPORT**, c/o Attorney Dina A. Scalo, Office of the City Attorney, 999 Broad Street,  
2nd Floor, Bridgeport, CT 06604



Cynthia A. Cannata  
Acting Clerk of the Commission