

STATE OF CONNECTICUT  
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by

FINAL DECISION

Ethan Book,

Complainant

against

Docket # FIC 2020-0647

Republican Registrar of Voters, City of  
Bridgeport; Democrat Registrar of Voters,  
City of Bridgeport; and City of Bridgeport,

Respondents

March 9, 2022

The above-captioned matter was heard as a contested case on November 15, 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 through the use of electronic equipment (remotely) pursuant to §149 of Public Act 21-2 (June Special Session).

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 June 30, 2020, the complainant requested records from the respondent registrars pertaining to annual elector canvassing notices sent by the respondents in 2009, 2010, 2018, 2019 and 2020.<sup>1</sup>
3. It is found that on June 30, 2020, the respondents acknowledged the complainant's request.
4. It is found that on July 8, 2020, the respondents requested clarification of the request described in paragraph 2, above.
5. It is found that, by letter dated July 8, 2020, the complainant clarified that he was seeking copies of canvassing letters or a list of names to whom such letters were sent for the

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<sup>1</sup> The Commission takes administrative notice of §9-32, G.S., which requires the registrars of voters in every municipality to maintain and update elector registration information and conduct an annual canvass of electors.

years identified.

6. It is found that on July 15, 2020, the respondents acknowledged the July 8, 2020, letter.

7. It is found that, by letter dated November 23, 2020, the complainant, having received no responsive records, renewed his requests for all responsive records as described in paragraphs 2 and 5, above.

8. It is found that, by letter dated December 1, 2020, the complainant amended his request also to include “the National Change of Address (NCOA) registry for the City of Bridgeport for each of the same years.”

9. It is found that, by letter dated December 8, 2020, the respondents acknowledged the December 1, 2020, amended request.

10. By letter of complaint filed December 18, 2020,<sup>2</sup> the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by denying his requests described in paragraphs 2, 5, and 8, above.

11. 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.<sup>3</sup>

12. 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

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<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 and requires that an appeal of the denial of any right conferred by the Act be filed no later than 30 days after such denial. 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.

<sup>3</sup> Public Act 21-2 (June Sp. Sess.) amended the definition of “public records or files” to include data or information that is “videotaped.” Such amendment was effective June 23, 2021.

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.

13. 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.”

14. It is found that the records described in paragraphs 2, 5, and 8, above, to the extent such records are maintained by the respondents, are public records within the meaning of §§1-200(5), 1-210(a) and 1-212(a), G.S.

15. It is found that the respondents do not maintain copies of the canvassing notices mailed to electors; but that they do maintain a list of the names and addresses of electors to whom canvassing notices were mailed. It is found that the list of electors to whom such notices were sent is comprised primarily of the National Change of Address Registry (NCOA) as referenced in the complainant’s amended request dated December 1, 2020.

16. However, it is found that as of the date of the hearing in this matter, the respondents had not provided any responsive records to the complainant.

17. It is found that the respondents conducted a search, located responsive records for the years 2018, 2019 and 2020, and forwarded such records to the city attorney for review at some point during 2020. However, the respondents were unable to provide the date of such search or the date such records were forwarded to the city attorney. Additionally, it is found that after several months of intermittent searches, the respondent registrars located responsive records for the years 2009 and 2010 and forwarded such records to the city attorney for review.<sup>4</sup>

18. At the hearing on this matter, respondents’ counsel represented that the records responsive to the complainant’s request were currently being reviewed in the city attorney’s office for compliance with the address confidentiality program pursuant to §54-240, G.S., et seq. Further, respondents’ counsel contended, despite the fact that, at the time of the hearing, 16 months had elapsed since the date of the request and no responsive records had been provided, the respondents did not deny the complainant’s request. As evidence of such lack of denial, the respondents referred to a letter dated December 8, 2020, in which respondents’ counsel specifically wrote, “your request has not been denied.”

19. Respondents’ argument that they did not deny the request at issue herein, and therefore did not violate the FOI Act, ignores the plain language in §1-212(a), G.S., requiring a public agency to provide a copy of any public record to a requester promptly.

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<sup>4</sup> At the hearing on this matter, the respondent registrars explained that the process for responding to FOI requests is to forward any responsive records to the city attorney’s office for review prior to public disclosure.

20. 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.

21. 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.

22. As the court recognized in Commissioner of Department of Emergency Services and Public Protection v. Freedom of Information Commission, Superior Court, judicial district of New Britain, Docket No. HHB-CV-18-6047741 (July 20, 2020) \*6, a public agency should consider its obligations under the FOI Act as a “primary duty” of that agency, “on par with the [agency’s] other significant duties, or said another way, that the agency’s FOIA duty is not a second class duty.”

23. The Commission takes administrative notice of the fact that around mid-March 2020, due to the COVID-19 pandemic, state, city, and local government buildings, as well as businesses considered non-essential, were closed by executive order of the Governor. However, the complainant’s request was made June 30, 2020, and the respondents testified that their facilities reopened the next day, July 1, 2020, albeit on a limited schedule.

24. At the hearing in this matter, the respondent registrars testified as to the challenges faced by their office as a result the COVID-19 pandemic. The respondent registrars testified that while the request was pending, preparation for the 2020 presidential primary, local primaries, as well as the November general elections were tasks of the highest priority. Additionally, the registrars testified that in early 2021 their highest priority was conducting the statutorily required annual elector canvass between January 1 and May 1, 2021. It is found that the respondents provided no evidence regarding the volume of records at issue.

25. It is concluded that the respondents cannot avoid their obligation under the FOI Act to provide public records “promptly upon request” simply by forwarding responsive records to counsel.

26. Accordingly, it is concluded that the respondents violated §§1-210(a) and 1-212(a), G.S., when they failed to promptly disclose the records identified in paragraphs 2, 5, and 8, above.

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

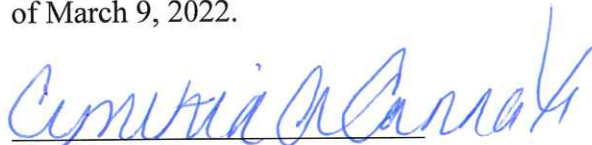
1. Within 21 days of the date of the Notice of Final Decision, the respondents shall provide a copy of all records responsive to the requests described in paragraphs 2, 5, and 8, of the findings at no charge.

2. In complying with paragraph 1 of the order, the respondents may redact the addresses from the responsive records to the extent necessary to comply with the address confidentiality program pursuant to §54-240, G.S., et seq.

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

4. The Commission is disturbed by the length of the delay in disclosing the requested records in this case. The respondents are cautioned that similar delays in future cases may result in the imposition of a civil penalty.

Approved by Order of the Freedom of Information Commission at its regular meeting of March 9, 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

**REPUBLICAN REGISTRAR OF VOTERS, CITY OF BRIDGEPORT; DEMOCRAT REGISTRAR OF VOTERS, 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