

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Nancy Burton,

Complainant

against

Docket #FIC 2021-0258

Commissioner, State of Connecticut,
Department of Agriculture; State of
Connecticut, Department of Agriculture;
Commissioner, State of Connecticut,
Department of Administrative Services;
and State of Connecticut, Department of
Administrative Services,

Respondents

May 11, 2022

The above-captioned matter was heard as a contested case on April 5, 2022, at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint. The hearing was conducted remotely through the use of electronic equipment, pursuant to §149 of Public Act 21-2 (June Sp. Sess.).

After the complaint was filed, the Department of Agriculture respondents (“DOAG”) notified the Commission that they sought and obtained a security risk assessment relative to the request at issue in this matter from the Commissioner of the Department of Administrative Services (“DAS”), pursuant to §§1-210(b)(19) and (d), G.S.¹ Therefore, pursuant to §1-210(d), G.S., the Commission added the Commissioner of DAS and DAS as respondents. During the hearing, however, it was determined that the security risk assessment issued by DAS did not pertain to the request at issue in this matter and that such assessment therefore was provided to the Commission in error.

¹ Section 1-210(b)(19), G.S., permits nondisclosure of public records when there are reasonable grounds to believe that disclosure may result in a safety risk to any person or government owned/leased building. For records of a state agency, the security risk assessment must be made by the Commissioner of Administrative Services, after consultation with the chief executive officer of the state agency.

Section 1-210(d), G.S., provides that whenever a state agency receives a request for disclosure of records described in §1-210(b)(19), G.S., the state agency shall promptly notify the Commissioner of Administrative Services of such request before complying with it. If the Commissioner of Administrative Services in consultation with the chief executive of the state agency determines that the requested records are exempt from disclosure pursuant to §1-210(b)(19), G.S., the Commissioner of Administrative Services may direct the state agency to withhold such records from the requester.

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 email April 9, 2021, the complainant requested from DOAG a copy of:
 - (a) all records of veterinary care provided to my goats after they were illegally seized from my property on March 10, 2021; and
 - (b) the names and addresses of all veterinarians who examined them including dates and times and locations.
3. By letter dated and filed May 10, 2021,² the complainant appealed to this Commission, alleging that DOAG violated the Freedom of Information (“FOI”) Act by failing to provide the requested records.
4. 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.³
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.

² 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.

³ 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”.

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

8. It is found that, by email dated June 25, 2021, DOAG provided unredacted copies of approximately 400 responsive records to the complainant.

9. At the hearing, the complainant stated that she couldn’t determine whether all responsive records were provided because she had two civil lawsuits pending against the respondents, as well as dozens of FOI requests, which made things “confusing”.

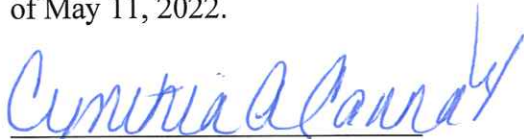
10. However, Carol Briggs, a staff attorney and the FOI liaison for DOAG, testified at the hearing that due to the underlying seizure action taken by DOAG against the complainant’s property as well as the litigation filed by the complainant against DOAG, all records pertaining to the complainant are kept in one central location within the offices of DOAG. Therefore, Attorney Briggs testified, she was confident that all responsive records were located and provided. Based upon the credible testimony of Attorney Briggs, it is found that DOAG provided all records it maintains that are responsive to the request, described in paragraph 2, above, to the complainant.

11. Based upon the foregoing it is concluded that the respondents did not violate §§1-210(a) and 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 May 11, 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:

NANCY BURTON, 154 Highland Avenue, Rowayton, CT 06853

COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF AGRICULTURE; STATE OF CONNECTICUT, DEPARTMENT OF AGRICULTURE, c/o Attorney Carole W. Briggs, State of Connecticut, Department of Agriculture, 450 Columbus Boulevard, 7th Floor, Hartford, CT 06103; **COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF ADMINISTRATIVE SERVICES; AND STATE OF CONNECTICUT, DEPARTMENT OF ADMINISTRATIVE SERVICES**, c/o Attorney Michael Barrera, State of Connecticut, Department of Administrative Services, 450 Columbus Avenue, Suite 1501, Hartford, CT 06103



Cynthia A. Cannata
Acting Clerk of the Commission