

STATE OF CONNECTICUT
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by

FINAL DECISION

Ermal Myftari,

Complainant

against

Docket # FIC 2021-0737

Tax Collector, City of Torrington;
and City of Torrington,

Respondents

October 26, 2022

The above-captioned matter was heard as a contested case on September 1, 2022, at which time the complainant and the respondents appeared, 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), as amended by §1 of Public Act 22-3.

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 November 30, 2021, Attorney A. Paul Spinella, on behalf of the complainant, made a request to the respondents for "the entire Tax Collector file relating to 33-37 Culvert Street [Torrington, CT] including all material related in any way to the May 11, 2021 sale of this property generated before the sale to the present date." ("November 30th request").
3. It is found that by email dated December 3, 2021, Attorney Thomas Malnati of TaxServ Capital Services, LLC ("TaxServ"), a tax collection agency hired to assist the respondent Tax Collector with the tax sale of 33-37 Culvert Street, responded on behalf of the respondents to the November 30th request. Attorney Malnati informed Attorney Spinella that "the entire file is compiled in affidavit form pursuant to [§12-167a, G.S.,] ...but [the] affidavit [was] not yet ready to be finalized...." It is found that a copy of the requested file was not provided to Attorney Spinella at that time.
4. By letter received December 29, 2021, Attorney Spinella, on behalf of the complainant, appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to comply with the November 30th request.
5. Section 1-200(5), G.S., provides:

“[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, videotaped, printed, photostated, photographed or recorded by any other method.

6. 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.

7. 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.”

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

9. It is found that between December 3, 2021, and January 3, 2022, the respondent Tax Collector and TaxServ compiled records responsive to the November 30th request. It is found that by letter dated January 3, 2022, the respondents provided Attorney Spinella, who was representing the complainant at that time, with copies of such records.¹

10. At the hearing, the complainant testified that he had not received any records responsive to the November 30th request. The complainant also testified that Attorney Spinella no longer represented him and that he did not know whether Attorney Spinella had received any responsive records.

11. It is found that the records described in paragraph 9, above, and provided to Attorney Spinella, who was then acting on behalf of the complainant, are all the records responsive to the November 30th request which the respondents maintain.

12. Based on the specific facts and circumstances of this case, it is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S.

¹ Copies of the records described in paragraph 9, above, were marked as respondents’ Exhibit 3, and provided to the complainant, at the hearing.

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

1. The complaint is hereby dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of October 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:

ERMAL MYFTARI, 118 Beechwood Ave., Torrington, CT 06790

TAX COLLECTOR, CITY OF TORRINGTON; AND CITY OF TORRINGTON, c/o Attorney Gregory S. Kimmel, Berchem Moses PC, 1221 Post Road East, Westport, CT 06880



Cynthia A. Cannata
Acting Clerk of the Commission