

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Gregg Haythorn and Jenn Haythorn,

Complainants

against

Docket #FIC 2021-0122

First Selectperson, Town of Weston; and  
Town Administrator, Town of Weston,

Respondents

September 28, 2022

The above-captioned matter was heard as a contested case on July 21, 2022, at which time the complainants 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.), 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 email dated February 25, 2021, the complainants requested from the respondents a copy of:

[a]ll records, communications, documents, presentations, materials, analysis, surveys, and appraisals, bid and offer agreements and materials and contracts, sales and marketing materials specific to the [Fromson Strasler] property related to the Town's efforts to market the property for sale to the highest bidder, in electronic and written form, inclusive of all text messages and emails from all Town-issued and personal accounts, etc. with and between and among all Town officials elected, paid, and appointed, as well as agents and representatives of the Town, and among real estate brokers contracted to market and realize the maximum value from a sale of the proposed parcel, as well as with and between and among all prospective bidders/buyers for the property. Between the

dates January 1, 2019 through March 10, 2021. (Emphasis added).

3. It is found that, by email dated March 1, 2021, the complainants requested confirmation of receipt of the request, and by email also dated March 1, 2021, the respondents acknowledged receipt, and informed the complainants that they believed they could provide the requested records by April 1, 2021.

4. By email dated March 1, 2021, and filed with the Commission on March 4, 2021,<sup>1</sup> the complainants appealed to this Commission, alleging that the respondents violated the Freedom of Information Act by failing to provide the requested records.

5. 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>2</sup>

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.”

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<sup>1</sup> 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.

<sup>2</sup> 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”.

8. It is concluded that the records requested by the complainants, to the extent they exist and are maintained by the respondents, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

9. It is found that the town sold the Fromson Strasler property in 2021; however, it is also found that the town did not “market the property for sale,” and that therefore, the respondents do not maintain any records pertaining to the *marketing* of the property for sale, responsive to the request described in paragraph 2, above.

10. Nevertheless, the respondent town administrator conducted a search of the records he maintained for any emails and other documents related to the *sale* of the property. It is found that the town administrator located more than one hundred pages of records and provided all such records to the complainant on March 30, 2021.<sup>3</sup>

11. At the hearing in this matter, the complainants argued that the respondents had a duty to disclose responsive records maintained by other public officials and departments of the town. However, even if such responsive records existed (see paragraph 9, above), the respondents had no such duty. See Lash v. Freedom of Information Commission, 116 Conn. App. 171, 187 (2009) (first selectman, as chief executive officer with supervision over all town departments, had no duty to maintain or make available public records of other town departments, each of which was a separate and distinct public agency).

12. 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 September 28, 2022.



Cynthia A. Cannata  
Acting Clerk of the Commission

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<sup>3</sup> The town administrator also conferred with the former first selectperson to inquire whether he (the former first selectperson), maintained any documents related to the sale of the property, in addition to those located by the town administrator, and determined that the former first selectperson did not maintain any additional documents.

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:

**GREGG AND JENN HAYTHORN**, 6 Winthrop Hill, Weston, CT 06883

**FIRST SELECTPERSON, TOWN OF WESTON; AND TOWN ADMINISTRATOR, TOWN OF WESTON**, c/o Attorney Ira W. Bloom and Attorney Nicholas R. Bamonte, Berchem Moses P.C., 1221 Post Road East, Westport, CT 06880



Cynthia A. Cannata  
Acting Clerk of the Commission