

STATE OF CONNECTICUT  
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by

FINAL DECISION

Richard Morin,

Complainant

against

Docket # FIC 2022-0141

Acting Warden, Board of Warden &  
Burgesses, Borough of Litchfield; and  
Borough Treasurer, Board of Warden and  
Burgesses, Borough of Litchfield,

Respondents

January 25, 2023

The above-captioned matter was heard as a contested case on August 1, 2022 and October 7, 2022, at which times 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 August 1 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. The October 7 hearing was an in person proceeding.

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 March 9, 2022, the complainant requested that the respondents provide him with copies of:
  - (a) The Agenda, Minutes or correspondence of any meeting related to the Borough Board in the hiring of Attorney Thomas Gerarde to represent The Litchfield Board of Warden and Burgesses at the January 11, 2022 Borough Board Meeting.
  - (b) Invoices on payment or payments to Attorney Thomas Gerarde for his services he render[ed] to The Litchfield Board of Warden . . . and Burgesses [“Board”].
3. It is found that, by email dated March 21, 2022, the respondents provided the complainant with a copy of the only record responsive to his request, described in paragraph 2(a), above, namely, minutes from the Board's December 7, 2021 meeting. It is further found

that, by email dated March 23, 2022, the respondents provided the complainant with a copy of the only record responsive to his request, described in paragraph 2(b), above, namely, an invoice.

4. By letter of complaint filed March 31, 2022, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to promptly provide him with the requested records, described in paragraph 2(b), above. The complainant further alleged that the respondents failed to make available the minutes of their March 8, 2022 regular meeting within seven days following such meeting. The complainant also alleged that the respondents failed to make the votes of each Board member regarding the appointment of a new Board member at the March 8, 2022 meeting available for public inspection within forty-eight hours of such vote.

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 records described in paragraph 2(b), above, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

9. It is found that the respondents located a single record responsive to the complainant’s request, described in paragraph 2(b), above, namely, an invoice. It is further found that the respondents provided such invoice to the complainant fourteen days after his request.

10. With regard to the complainant’s claim that the respondents failed to provide the invoice to him promptly, 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 account all of the factors presented by a particular request.” The advisory opinion goes on to describe some of the factors that should be considered, including: 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.

11. It is found that, although the respondents are part-time employees of the Board, they failed to provide any additional explanation for the fourteen-day delay in disclosing a single invoice to the complainant.

12. Accordingly, it is concluded that the respondents violated the promptness provisions in §§1-210(a) and 1-212(a), G.S.

13. Section 1-225(a), G.S., provides, in relevant part, that:

The votes of each member of any such public agency upon any issue before such public agency shall be reduced to writing and made available for public inspection within forty-eight hours and shall also be recorded in the minutes of the session at which taken. Not later than seven days after the date of the session to which such minutes refer, such minutes shall be available for public inspection and posted on such public agency’s Internet web site, if available, except that no public agency of a political subdivision of the state shall be required to post such minutes on an Internet website.


14. At the continued hearing, the respondents admitted, and it is found, that they failed to make available the minutes of their March 8, 2022 regular meeting within seven days of such meeting. The respondents further acknowledged, and it is found, that they failed to make the votes of each Board member on the appointment of a new Board member at the March 8, 2022 meeting available for public inspection within forty-eight hours of such vote. However, it is also found that the respondents have since engaged in training about the FOI Act.

15. Accordingly, it is concluded that the respondents violated §1-225(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. Henceforth, the respondents shall strictly comply with the provisions of §§1-210(a), 1-212(a) and 1-225(a), G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of January 25, 2023.

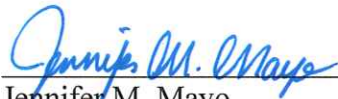
  
\_\_\_\_\_  
Jennifer M. Mayo  
Acting Clerk of the Commission

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:

**RICHARD MORIN**, 24 Holly House Ct., Apt. 3A, Litchfield, CT 06759

**ACTING WARDEN, BOARD OF WARDEN & BURGESSES, BOROUGH OF LITCHFIELD; AND BOROUGH TREASURER, BOARD OF WARDEN AND BURGESSES, BOROUGH OF LITCHFIELD**, c/o Attorney Steven E. Byrne, Byrne & Byrne LLC, 790 Farmington Avenue, Suite 2B, Farmington, CT 06032



---

Jennifer M. Mayo  
Acting Clerk of the Commission