

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Deanna Bouchard,

Complainant

against

Docket #FIC 2022-0199

Andreas Bisbikos, First Selectman, Town of  
Colchester; and Town of Colchester,

Respondents

March 22, 2023

The above-captioned matter was heard as a contested case on December 9, 2022, at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint.

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, on May 2, 2022, the complainant visited the respondent First Selectman's office during normal business hours and made an oral request to immediately inspect all American Rescue Plan Act grant funding applications ("ARPA grant applications") received by the Town of Colchester.
3. By letter of complaint, dated May 5, 2022, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by denying her right to promptly inspect the records, described in paragraph 2, above, when she visited the First Selectman's office on May 2, 2022. The complainant also requested the imposition of a civil penalty against the respondent First Selectman.

4. 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 1-218, whether such data or information be handwritten, typed, tape-recorded, videotaped, printed, photostated, photographed or recorded by any other method.

5. Section 1-210(a), G.S., provides, in relevant part:

[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 (1) inspect such records promptly during regular office or business hours, or ... (3) receive a copy of such records in accordance with section 1-212.

6. Section 1-212(a), G.S., provides, in relevant part: “[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 found that the requested records are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

8. At the hearing in this matter, the respondents’ witness, Executive Assistant Francesca Brown, testified, and it is found, that she is the person in the First Selectman’s office primarily responsible for overseeing FOI Act requests. Brown also testified, and it is found, that she became both the First Selectman’s Executive Assistant and the FOI liaison for his office five days prior to the complainant’s oral request. Brown further testified that she was the only employee working in the office at the time when the complainant made her in-person request.

9. It is found that, at the time of the complainant’s request, Brown did not know how to locate hardcopies of all responsive records and make them available to the complainant. It is also found that Brown phoned the respondent First Selectman for assistance but was unable to reach him at that time. It is found that Brown asked the complainant to make an appointment to come back and inspect the records at a future time or, alternatively, to view the records online. In addition, the respondent First Selectman also emailed the complainant on May 2, 2022, and asked the complainant to schedule a mutually convenient time for her to return to view the ARPA grant applications.

10. It is found that the deadline to submit ARPA grant applications to the respondent town was Saturday, April 30, 2022, and that all 150 ARPA grant applications had yet to be fully processed at the time of the complainant’s request, which was the first Monday following the Saturday submission deadline. It is also found that, at the time of the request, the respondents were dealing with information technology (“IT”) issues that prevented the public from viewing on the respondents’ website all ARPA grant applications that had already been processed.

11. The complainant argued that, because she sent an email on April 29, 2022, informing the respondent First Selectman that she would arrive to inspect the ARPA grant applications on May 2, 2022, such records should have been made available to her upon her arrival at the First Selectman’s office. It is found, however, that the respondents did not confirm an appointment

for May 2, 2022 for the complainant to inspect the applications. The complainant also testified that she should have been immediately provided the opportunity to inspect the applications because the complainant told Brown she needed to inspect the records, described in paragraph 2, above, prior to a special meeting of the Board of Selectmen for the respondent town that same night.

12. With regard to the complainant's claim that the denial of her request to immediately inspect records violated the FOI Act, it is well settled that the law does not require "immediate" access to records upon demand, but rather permits a person the right to receive a copy of or to inspect records "promptly." See, Anne Manusky v. Commissioner, State of Connecticut, Department of Education, et al., Docket #FIC 2016-0224 (November 16, 2016); see also, Bradshaw Smith v. Stephen Mitchell, Chairman, Greater Hartford Transit District, et al., Docket #FIC 2014-184 (October 8, 2014); Suzanne Carlson and the Journal Inquirer v. Mayor, Town of Vernon, et al., FIC 2011-542 (May 23, 2012) ("nothing in the FOI Act requires employees of a public agency, or public officials, necessarily to, to interrupt their work in order to immediately fulfill a request to inspect or copy records").

13. Based on the facts and circumstances of this case, it is concluded that the respondents did not violate the FOI Act by refusing to permit immediate inspection of the requested records.

14. It is found that, although Brown and the respondent First Selectman both asked the complainant to make a follow-up appointment to inspect the ARPA grant applications at the First Selectman's office, the complainant never made such an appointment and never returned to inspect the requested records. It is also found that the complainant did not request copies of the requested records.

15. The respondents testified, and it is found that, on or about May 16, 2022, in response to the IT issues described in paragraph 10, above, the Chairman of the respondent town's ARPA Subcommittee created a Google Drive<sup>1</sup> on the respondent town's website, in order to allow the public to inspect the processed ARPA grant applications. It is also found that, by June 11, 2022, all ARPA grant applications had been processed, uploaded to the Google Drive, and were accessible to the public. It is further found that, as of the hearing in this matter, the complainant had yet to review the ARPA grant applications available on the respondent town's website.

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

17. Based upon the foregoing conclusions, the complainant's request for the imposition of a civil penalty need not be addressed.

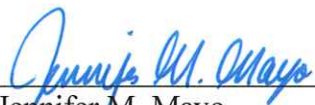
The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. The complaint is dismissed.

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<sup>1</sup> Google Drive is a file storage and synchronization service that allows users to store files in the cloud, synchronize files across devices, and share files. See <https://www.google.com/drive/>.

Approved by Order of the Freedom of Information Commission at its regular meeting of March 22, 2023.



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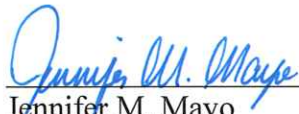
Jennifer M. Mayo  
Acting Clerk of the Commission

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:

**DEANNA BOUCHARD**, 16 Meadow Drive, Apt #3, Colchester, CT 06415

**ANDREAS BISBIKOS, FIRST SELECTMAN, TOWN OF COLCHESTER; AND TOWN OF COLCHESTER**, c/o Attorney Julie Jaquays, Shipman & Goodwin LLP, One Constitution Plaza, Hartford, CT 06103



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Jennifer M. Mayo  
Acting Clerk of the Commission