

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Terry A. Stringer,

Complainant

against

Docket #FIC 2023-0444

Director, State of Connecticut,  
Connecticut Insurance Department;  
and State of Connecticut, Connecticut  
Insurance Department,

Respondents

September 25, 2024

The above-captioned matter was heard as a contested case on March 11, 2024, at which time the complainant and the respondents appeared and presented testimony, exhibits, and argument on the complaint.

On August 14, 2024, after reviewing the administrative record in this matter, the Hearing Officer ordered the respondents to provide additional evidence concerning their response to the complainant's records request at issue herein. On August 21, 2024, the respondents complied with the Hearing Officer's order and submitted: (i) a copy of their September 20, 2023 acknowledgment and reply to the complainant's records request, admitted into evidence as Respondents' Exhibit 7 (After-filed); and (ii) a sworn affidavit of Gerard O'Sullivan dated August 19, 2024, admitted into evidence as Respondents' Exhibit 8 (After-filed).<sup>1</sup>

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 September 15, 2023, the complainant, via email to the respondents, submitted a records request seeking all files pertaining to File #7041773<sup>2</sup>, including:

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<sup>1</sup> In his August 14, 2024 order, the Hearing Officer provided the complainant an opportunity to object to any statement contained in the respondents' affidavit. On August 28, 2024, the complainant submitted correspondence to the Commission regarding the August 14 order, but he did not object to any of the statements contained in the respondents' affidavit.

<sup>2</sup> File numbers refer to the files maintained by the respondents in connection with a particular complaint filed with their office.

- a. All records requested by Naim Bojka in the letter dated January 3, 2022 addressed to Susan Hatfield.
- b. The request made by Attorney John G. Miller or any person speaking on behalf of the Harleysvilles Insurance Company for an extension to reply to the January 3, 2022 notice. Having made that request between January 3, 2022 – February 15, 2022.
- c. The records pertaining to the investigation(s) and finding(s) concerning the code upgrade issues.
- d. The records pertaining to Harleysvilles admission to changing the record as it had to do with electrical payments and not informing the insured. We would like all notes and emails pertaining to that.
- e. The email sent to Harleysvilles by Director Gerard O’Sullivan asking them to respond to their many unanswered and contradictory claims with their responses.

3. It is found that on September 20, 2023, the respondents replied acknowledging the complainant’s request and indicating that

While I believe all of the information that we have was already forwarded to you, we will review our files and get the information requested below [i.e., the records requested in paragraph 2, above] as soon as possible. Hope to have some of the items to you by the end of the week, some of the other items may take longer to produce.

4. By letter of complaint filed on September 29, 2023, the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information (FOI) Act by failing to comply with the request described in paragraph 2, above.<sup>3</sup>

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.

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<sup>3</sup> In his complaint, the complainant also alleges that the respondents have not disclosed all “information requested under file number 7043128.” As the complainant’s September 15 request exclusively sought records pertaining to File #7041773, allegations concerning records pertaining to File #7043128 are outside the scope of such request and will not be considered by the Commission.

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 on October 17, 2023, the respondents provided a portion of the responsive records to the complainant via a sharable Microsoft OneDrive folder.<sup>4</sup>

9. It is found that the October 17 disclosure consisted of 45 files comprised mostly of emails and pdf files for File #7041773 (i.e., the subject file of the complainant’s September 15 request described in paragraph 2, above).

10. It is found that Respondents’ Exhibit 1 consists of the respondents’ investigation log for File #7041773. In addition to general background and case management information, the investigation log contains a list of documents maintained by the respondents in connection with the complainant’s insurance complaint, the correspondence between the investigator and the parties, as well as the investigator’s notes.

11. It is found that the respondents’ October 17 disclosure consisted of a “*subset* of the whole file represented in [Respondents’] Exhibit 1. . . .” See Respondents’ Exhibit 8 ¶13 (After-filed) (Emphasis added).

12. It is found that the respondents’ October 17 disclosure represents the only instance where the respondents sent responsive records to the complainant *after* the respondents’ receipt of the complainant’s September 15 request. See Respondents’ Exhibit 8 ¶¶ 11 and 12.

13. It is found, therefore, that the respondents failed to provide the complainant with all responsive records he sought in connection with his September 15 request.

14. The respondents assert that the complainant had previously made a records request seeking the same records and that all responsive records were disclosed to him in connection with that request.

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<sup>4</sup> At the March 11, 2024 hearing, the complainant objected to Respondents’ Exhibit 6 (evidencing the respondents’ October 17 disclosure) on the grounds that he had never received such email. However, the complainant was directed to the portion of Respondents’ Exhibit 6 evidencing that the respondents provided him a link to access the October 17 disclosure. Moreover, in the complainant’s August 27, 2024 response to the Hearing Officer’s August 14, 2024 Order for additional evidence, he indicated that he was able to locate the email at issue in Respondents’ Exhibit 6, but did not access the files until August 27, 2024.

15. It is found that between February and March 2023, the respondents did disclose additional records to the complainant via a series of emails. See Respondents' Exhibits 2 – 4. However, it is found that such disclosure predates the complainant's request at issue in this case.

16. Case law makes clear that a public agency is not absolved of its obligations to provide responsive records simply because a requestor has previously requested and received the same records. See Mayor v. Freedom of Info. Comm'n, Docket No. CV010511803S, 2002 WL 523086 at \*4 (Conn. Super Ct., March 19, 2002) ("There is nothing in the Connecticut FOIA that bars repeating a request to a public agency. Indeed, a complainant may seek to start an appeal period over again by asking for a record again, or a complainant may have lost the document after the first request. The FOIA simply provides that '[a]ny person applying in writing shall receive, promptly upon request, a plain or certified copy of any public record. . . .' Unless exempt, all records are public records, and 'every person shall have the right to receive a copy of such records in accordance with the provisions of Section 1-212. . . . [T]he general rule under the [FOIA] is disclosure. . . .'" (citations omitted).

17. It is found, therefore, that the respondents' disclosure of responsive records to the complainant in connection with a prior request does not satisfy their obligation to provide the complainant with all responsive records in response to his September 15 request.

18. Moreover, the complainant highlighted certain records which he alleges were never disclosed by the respondents such as: (i) various emails between the complainant and the case investigator for File #7041773; and (ii) all records pertaining to File #7041773 prior to March 4, 2022, including, but not limited to, the insurance company's initial response to his complaint filed with the respondents.

19. The respondents testified that between the disclosures for the complainant's previous request (i.e., the records emailed to the complainant in Respondents' Exhibits 2-4) and their October 17 disclosure, no responsive records were withheld from the complainant. The respondents further testified that they sent everything in their possession concerning File #7041773 to the complainant.

20. It is found that as part of their search efforts in response to the complainant's September 15 request, the respondents contacted the attorney for the insurance company at issue in File #7041773, seeking copies of what was sent between the respondents and the insurance company for that file. It is found that these records were forwarded to the complainant as part of the respondents' October 17 disclosure.

21. Despite the respondents testimony noted in paragraph 19, above, and the findings made in paragraph 20, above, it is nevertheless found that the respondents did not provide evidence concerning the alleged missing records identified in paragraph 18, above, including whether such records exist, were maintained by the respondents at the time they received the complainant's September 15 request, and/or whether such records were provided to the complainant as part of their October 17 disclosure.

22. It is found, therefore, that the respondents failed to prove that all responsive records were disclosed to the complainant in response to his September 15 request.<sup>5</sup>

23. Accordingly, it is concluded that the respondents violated the disclosure provisions of §§1-210(a) and 1-212(a), G.S.

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

1. Within seven (7) days of the notice of final decision in this matter, the respondents shall provide the complainant with a copy of all records responsive to the complainant's request as described in paragraph 2 of the findings, above, without redaction and free of charge. The respondents shall notify the Commission of what records were provided to the complainant and when, via affidavit.

2. Within fourteen (14) days after the receipt of the records ordered in paragraph 1, above, the complainant shall provide the respondents with an itemized list of specific records that are believed to be missing from the respondents' disclosure, if any. Such records shall be described in as much detail as possible including, but not limited to, specific dates, time stamps, record types, and individuals involved. If after the respondents' disclosure ordered in paragraph 1, above, the complainant believes no responsive records remain outstanding he shall so indicate in an affidavit.

3. Within fourteen (14) days after receipt of the complainant's itemized list of alleged outstanding records, if applicable, the respondents shall: (i) conduct a thorough and diligent search for such records; (ii) provide an affidavit responding to each record identified by the complainant describing the search that was conducted and whether, after such search any alleged outstanding records were located; and (iii) disclose any located records, without redaction and free of charge.

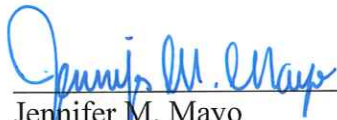
4. All affidavits ordered herein shall be submitted to the Commission, with copy to the other party, via email at [foi@ct.gov](mailto:foi@ct.gov) by no later than the close of business on the dates identified in paragraphs 1-3 of this order, above.

5. Henceforth, the respondents shall strictly comply with the disclosure provisions of §§1-210(a) and 1-212(a), G.S.

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<sup>5</sup> For example, the Commission notes that Respondents' Exhibit 1 indicates that the insurance company's initial response to the complaint in File #7041773 was attached to the respondents' investigation log on February 7, 2022. However, the list of records contained in the respondents' October 17 disclosure (i.e., Respondents' Exhibit 6) does not, on its face, show that such response was provided to the complainant.

Approved by Order of the Freedom of Information Commission at its regular meeting of September 25, 2024.

A handwritten signature in blue ink, appearing to read "Jennifer M. Mayo", is written over a horizontal line.

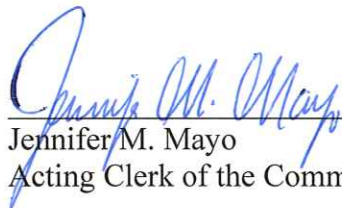
Jennifer M. Mayo  
Acting Clerk of the Commission

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:

**TERRY A STRINGER**, 140 Deer Run Trail, Manchester, CT 06042

**DIRECTOR, STATE OF CONNECTICUT, CONNECTICUT INSURANCE DEPARTMENT; AND STATE OF CONNECTICUT, CONNECTICUT INSURANCE DEPARTMENT**, c/o Attorney Antonio Caporale, State Department of Insurance, PO Box 816, Hartford, CT 06106 and Assistant Attorney General John Langmaid, Office of the Attorney General, 165 Capitol Avenue, Hartford, CT 06106



Jennifer M. Mayo  
Acting Clerk of the Commission