

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Joseph Sastre,

Complainant

against

Docket #FIC 2024-0271

Town Manager, Town of Avon;
and Town of Avon,

Respondents

April 23, 2025

The above-captioned matter was heard as a contested case on October 2, 2024, at which time the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits, and argument on the complaint. A continued hearing was convened on January 29, 2025, at which time the respondents appeared, stipulated to certain facts, and presented testimony and argument on the complaint; the complainant did not appear at the continued hearing.

On November 17, 2021, the Commission issued a final decision in Sastre v. Town Manager, Town of Avon, et al., Docket #FIC 2020-0133 (“Avon 1”). The record at issue in that case was an eleven-page log created by a town employee, which detailed certain incidents concerning the then-Chief of Police for the Town of Avon. The respondents claimed that the log was exempt from disclosure in its entirety pursuant to §1-210(b)(10) G.S., which permits an agency to withhold from disclosure records of “communications privileged by the attorney-client relationship.” After an in camera inspection, the Commission found that the log was not exempt from disclosure and ordered the respondents to provide a copy of the log to the complainant, free of charge.

The Avon respondents appealed the Commission’s final decision in Avon 1 to the Superior Court. The Superior Court sustained the Commission’s decision and dismissed the appeal. The Avon respondents then appealed the Superior Court’s decision to the Appellate Court. The Appellate Court sustained the lower court’s decision and dismissed the appeal. See Town of Avon, et al. v. Sastre, et al., No. HHB-CV-21-6070256-S, 2022 WL 6421446, at *1 (Conn. Super. Ct. Sept. 20, 2022), *aff’d*, 224 Conn. App. 155, 312 A.3d 40 (2024). Finally, the Avon respondents petitioned the Connecticut Supreme Court for certification to appeal from the Appellate Court. The petition was denied. See Town of Avon, et al. v. Sastre, et al., 349 Conn. 905 (Apr. 23, 2024) (cert. denied).

On April 24, 2024, in response to the complainant's renewed request for the log, the Avon respondents emailed the complainant a PDF copy of the log (the "PDF record"). The request and appeal detailed below follow from the disclosure of the PDF record.

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 April 30, 2024, the complainant requested that the respondents provide him with "...a copy of the email by which [the respondent Town Manager] received [the PDF record] back from Attorney [Michael] Harrington's office."¹
3. It is found that, by email dated May 3, 2024, the respondent Town Manager responded that the respondents did not maintain a record responsive to the request.
4. It is found that, by email dated May 6, 2024, the complainant requested to inspect the original PDF record at the respondent Town Manager's office.
5. It is found that, by email dated May 6, 2024, the respondent Town Manager replied as follows: "You have the document. I sent it to you via email on 4/24."
6. It is found that, by email dated May 6, 2024, the complainant replied as follows:

I want to inspect the original [PDF record] and the file data attached to it. Those are public records. Unless you want to admit outright that you [have] had a copy of the document ever since [the town employee] handed it to you on November 8, 2019, and that you had access to the document the entire time since. I think that you lied to the FOIA Commission.
7. It is found that, by email dated May 6, 2024, the respondent Town Manager replied to the complainant as follows: "You are mistaken. At this point, you can direct any further inquiries regarding this matter to Attorney Harrington."
8. It is found that, by email dated May 6, 2024, the complainant requested access to the following records:

I would like to inspect the entire legal bill(s) for Attorney Harrington's efforts at keeping the document a secret.

¹ Attorney Michael Harrington represented the Avon respondents before the Commission in the Avon 1 matter, as well as on appeal before the Connecticut Superior, Appellate and Supreme Courts.

Please provide me [with] access to them, or copies of them if access is not convenient for you.

9. By email dated and filed May 16, 2024, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide him with the requested records.

10. 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.

11. 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 (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.

12. 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.”

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

14. At the first contested case hearing on this matter, the complainant clarified that the only request that remained at issue in this case was the request for the metadata associated with the PDF record that he received from the respondent Town Manager on April 24, 2024. See ¶ 6, above.

15. It is found that the PDF record that the respondent Town Manager provided the complainant on April 24, 2024 contained the following stamp: “20191108124456805.pdf.” The complainant contended the first twelve numbers of the stamp represented the date and time when the PDF had been scanned, which indicated to him that the underlying paper log must have been scanned into a computer system on *November 8, 2019* at *12:44 pm*. In this regard,

the complainant contended that, contrary to the respondents' legal position throughout the Avon 1 matter (and the subsequent appeals) that they did not maintain a copy of the log, such log must have been in the respondents' possession from the time that he filed his complaint with the Commission in Avon 1 until the time that the Connecticut Supreme Court denied the Avon respondents' petition for certification.

16. Because the respondents did not appear at the first contested case hearing with a witness, the hearing was continued so that the respondent Town Manager could appear and testify on this matter.

17. After the initial contested case hearing and before the continued hearing took place, it is found that the respondents filed a Motion for Clarification to inform the hearing officer that they had located the requested metadata associated with the PDF record and had provided those records to the complainant. The motion has been marked as Respondents' Post-hearing Ex. 2.

18. The respondent Town Manager appeared at the continued hearing and testified on behalf of the respondents.

19. It is found that, on November 8, 2019, a hard copy log detailing incidents concerning the then-Chief of Police was turned into the respondent Town Manager by the town employee who had created the log. It is further found that, on November 8, 2019, at the request of the respondent Town Manager, the hardcopy log was scanned into the town's computer by a town clerk so that it could be emailed to the town's attorney for legal advice concerning whether such record was exempt from disclosure under the FOI Act. It is further found that, on November 8, 2019, the town clerk returned the hardcopy log to the respondent Town Manager who, in turn, returned the hard copy log to the employee who had created it. It is therefore found that, contrary to the respondents' representations to this Commission during the Avon 1 matter and to the courts in the various appeals that followed, the respondents maintained the PDF log throughout the time that the Avon 1 matter was pending before the Commission and throughout the subsequent appeals that followed the Commission's final decision.

20. With regard to the request set forth in paragraph 6, above, it is found that, by email dated October 7, 2024, the respondents provided the complainant with the metadata associated with the PDF record that had been created on November 8, 2019 when the hardcopy log had been scanned into the town's computer system.

21. Upon receipt of the metadata, it is found that the complainant informed the respondents that he was not satisfied with such records. It is further found that, at that time, the complainant provided the respondents with detailed written instructions on how to obtain additional metadata associated with the November 8, 2019 PDF record. It is found that the respondent Town Manager, along with his assistant, followed the complainant's instructions, obtained one additional page of metadata, and provided such record to the complainant.

22. It is further found that, by the time of the second contested case hearing on this matter, the respondents had provided the complainant with all metadata records in their possession that were associated with the PDF record.

23. Based on the facts and circumstances of this case, including the fact that the complainant did not raise a promptness violation, it is concluded that the respondents did not violate the disclosure provisions of §§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 hereby dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of April 23, 2025.



Molly Steffes
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:

JOSEPH SASTRE, The Law Office of Joseph R. Sastre, LLC, 852 Plainville Avenue, Farmington, CT 06032

TOWN MANAGER, TOWN OF AVON; AND TOWN OF AVON, c/o Attorney Michael C. Collins, Halloran & Sage LLP, 225 Asylum Street, Hartford, CT 06103



Molly Steffes
Acting Clerk of the Commission