

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Lee McCready,

Complainant

against

Docket # FIC 2024-0605

Chairman, Board of Ethics, City of New
London; Board of Ethics, City of New
London; and City of New London,

Respondents

August 27, 2025

The above-captioned matter was heard as a contested case on March 17, 2025 and May 6, 2025, at which times the complainant and the respondents appeared, stipulated to certain facts, 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, by letter dated September 13, 2024, the complainant requested that the respondents provide him with copies of the following records:
 - [a.] ... all documents related to the ethics complaint filed by Lee McCready in the year 2024; ethics complaint[s] ‘2024-1’ and ‘2024-2’); and]
 - [b.] ... ALL, but not limited to: ‘data, documentation, stipulations, agreements, investigation material, findings, notes, sanctions, punishment or agreements’ related to accepted probable cause ethics complaint 2024-2.
3. It is found that, by email sent on September 17, 2024, the respondents acknowledged the complainant’s September 13, 2024 request.
4. By letter of complaint filed on October 7, 2024, the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information (“FOI”) Act by not providing all records responsive to his September 13, 2024 request. During the hearings on this matter, the complainant requested that all available penalties be imposed against the respondents.

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 concluded that the requested records, to the extent that 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, on October 30, 2024, the respondents provided the complainant with approximately sixty-three pages of records responsive to the September 13, 2024 request.

10. At the hearings on this matter, the complainant acknowledged that he had received records from the respondents. He contended, however, that the records were not promptly provided. The complainant also contended at the hearings that he believed there should be additional responsive records, which the respondents improperly withheld.

11. The respondents contended that they conducted a diligent search and acted in good faith to provide the complainant with all non-exempt records that they believed were responsive to the September 13, 2024 request. The respondents also disputed the complainant’s claim that they failed to promptly provide him with the responsive records.

12. The complainant testified, and it is found, that he had previously filed two ethics complaints with the respondent Board of Ethics for the City of New London (“respondent Board”) against the Assessor for the City of New London (“Assessor”), which were accepted on April 10, 2024. He further testified, and it is found, that the respondent Board found probable cause with respect to three issues set forth in his second ethics complaint, described as “2024-

2.”¹ The board ultimately accepted the Assessors’ stipulations to resolve these three issues.

13. The complainant also testified, and it is found, that he had commenced court litigation against the respondent Board as well as a tax appeal against the City of New London. The complainant contended that the respondent Board purposefully withheld certain records from the complainant because such records would assist him with respect to his pending litigation. More specifically, the complainant contended that the respondents purposefully withheld unsworn statements made by an attorney during the respondent Board’s investigation of the complainant’s ethics complaints as well as the stipulated resolutions the respondent Board approved with respect to the three issues for which the respondent Board found probable cause.

Search for Records

14. At the hearings on this matter, the chairperson for the respondent Board (“Chairperson”) testified on behalf of the respondents, and it is found, as follows:

- a. During the ethics complaint process the Chairperson saved pertinent records in a file on his computer;
- b. He searched the file where the responsive records were stored and provided such records to the attorney for the respondent Board;
- c. Certain respondent Board discussions concerning the investigations and consideration of settlement proposals related to the ethics complaints were made orally in executive sessions of the respondent Board and no records were kept of such discussions; and
- d. No records exist of the discussions between counsel for the respondent Board and the collective bargaining unit representing the Assessor nor between counsel and the Chairperson.

15. With respect to the unsworn statements made by an attorney during the respondent Board’s investigation of the complainant’s ethics complaints, referenced in paragraph 13, above, the Chairperson testified, and it is found, that there are no records of such statements; such statements were made orally during an executive session of the respondent Board and that no notes or transcripts exist of such statements.

16. With respect to the stipulated resolutions that the respondent Board approved, referenced in paragraph 13, above, the Chairperson testified, and it is found, that the respondents provided the complainant with all records documenting such resolutions and that no other records related thereto exist.

¹ The complainant contended that, pursuant to the New London Code of Ethics, the respondent Board improperly delayed making the investigation public after finding probable cause and failed to comply with certain other deadlines required by the Code of Ethics. The Commission lacks jurisdiction over such claims and therefore will not further address them herein.

17. Although the complainant insisted that the respondents were required to keep phone logs of telephone conversations, the Chairperson testified, and it is found, that the respondents did not keep phone logs concerning telephone conversations relating to the complainant's ethics complaints.²

18. During the hearings on this matter, the Chairperson acknowledged that he failed to provide the complainant with certain emails he had sent from his personal email account as well as his city email account relating to: the filing of the agendas and minutes for the respondent Board's meetings with the City Clerk for the City of New London and the scheduling of respondent Board meetings with the Assessor. The respondents claimed that such emails were merely administrative and contained no information that was not provided to the complainant. It is found, however, that such records are responsive to the complainant's request and therefore should have been provided to him. It is further found that the respondents failed to prove that they thoroughly searched the Chairperson's or other board members' emails for responsive records.³

19. Based upon the record in this case, it is found that the respondents failed to conduct a reasonably thorough search for responsive records.

20. It is also found that the respondents failed to provide the complainant with all records responsive to the September 13, 2024 request.

21. It is concluded therefore that the respondents violated the disclosure provisions set forth in §§1-210(a) and 1-212(a), G.S.

Promptness

22. The complainant contends that the records the respondents provided in response to his request were not produced promptly.

23. The Commission has held 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* (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 factors presented by a particular request."

24. The advisory opinion goes on to describe some of the factors that should be considered in weighing a request for records against other priorities: 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 requestor, if ascertainable; and the

² The Commission notes that the FOI Act does not require public agencies to create and maintain phone logs, contrary to the complainant's arguments at the hearings on this matter. Nor did the September 13, 2024 request specifically seek phone logs.

³ In the respondents' brief, the respondents stated that they will provide such emails to the complainant; however, such records should have been provided previously. It is also noted that the respondents did not provide a date when they would provide such records to the complainant.

importance to the public of completing other agency business without the loss of personnel time involved in complying with the request. In addition, common sense and goodwill ought to be the guiding principles.

25. It is found that the respondent Board is a volunteer board, and it has no staff to assist it. It is found that the Chairperson prepares the agendas, minutes and letters produced by the respondent Board.

26. As found in paragraph 9, above, the respondents provided the complainant with approximately sixty-three pages of responsive records on October 30, 2024, forty-seven days after the date of the request.

27. It is found that the Chairperson provided the responsive records to counsel for the respondent Board, who reviewed such records for potential exemptions to disclosure. However, the respondents could not provide an exact date as to when such records were provided to counsel and failed to provide any evidence as to how much time was required to review such records, including the date such review was completed.

28. It is found that no evidence was presented that the complainant informed the respondents of the importance of the records to the complainant. However, the respondents reasonably should have known that the records were substantially important to the complainant because he was the individual who filed the subject ethics complaints, he had previously asked for the investigation records during a meeting of the respondent Board, and he followed up with the respondents regarding the status of his request on September 25, 2024, and again on October 21, 2024.

29. It is found that, by email dated September 27, 2024, counsel for the respondent Board informed the complainant that he was "awaiting the transcript from the stenographer" and that he "should have documents [available] for ... pick up early next week." However, it is found that the respondents failed to provide any evidence of the specific date that they actually received such transcript, whereas the stenographer's certification states that she affixed her seal to the final transcript related to the ethics complaints on September 17, 2024. It is further found that the records were not provided to the complainant for thirty-three days after counsel's September 27, 2024 email, however no specific evidence was presented explaining such delay.

30. Considering all of the factors, it is found that the respondents failed to prove that they promptly provided the complainant with records responsive to his September 13, 2024 request.

31. Accordingly, it is concluded that the respondents violated the promptness requirements of §§1-210(a) and 1-212(a), G.S., under the facts and circumstances of this case.

32. Although the respondents (i) failed to conduct a thorough search for records responsive to the September 13, 2024 request, and (ii) did not act promptly in disclosing records to the complainant, it is found that there is no evidence that the respondents acted in bad faith, deliberately delayed the disclosure of records, despite the complainant's suspicions, or otherwise engaged in a pattern of conduct resulting in repeated violations of the public's rights under the

FOI Act.

33. Accordingly, based on the facts and circumstances of this case, the Commission declines to consider the imposition of a civil penalty on the respondents.

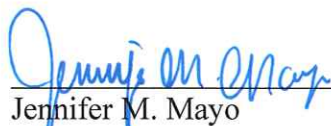
The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. If the respondents have not already provided the complainant with copies of the records described in paragraph 18 of the findings, above, the respondents shall do so within seven days of the date of the Notice of the Final Decision in this matter, free of charge.

2. Within thirty (30) days of the Notice of the Final Decision, the respondents shall undertake a search for additional records, including emails, both on personal and town email accounts, by, to or from the Chairperson and other members of the respondent Board that are responsive to the complainant's September 13, 2024 request. The respondents shall provide the complainant with a copy of such records and emails, if any are located, free of charge. Within forty-five (45) days of the Notice of the Final Decision, the respondents shall also provide an affidavit to the complainant and the Commission, prepared by a person with knowledge of the efforts taken, and detailing the scope and results of their search.

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

Approved by Order of the Freedom of Information Commission at its regular meeting of August 27, 2025.

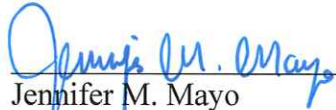

Jennifer M. Mayo
Acting Clerk of the Commission

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:

LEE MCCREADY, 44 Lincoln Avenue, New London, CT 06320

CHAIRMAN, BOARD OF ETHICS, CITY OF NEW LONDON; BOARD OF ETHICS, CITY OF NEW LONDON; AND CITY OF NEW LONDON, c/o Attorney Brian K. Estep, Conway, Londregan, Sheehan & Monaco, P.C., 38 Huntington Street, New London, CT 06320



Jennifer M. Mayo
Acting Clerk of the Commission