

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Todd Steigman,

Complainant

against

Docket #FIC 2024-0077

Commissioner, State of Connecticut,
Department of Agriculture;
and State of Connecticut;
Department of Agriculture,

Respondents

January 22, 2025

The above-captioned matter was heard as a contested case on August 21, 2024 and October 21, 2024, 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 email dated January 11, 2024, the complainant requested that the respondents provide him with a copy of the following records:
 - a. All public records, documents, and communications, relating to the No Contact Order that was applied to Willow Lake and Timothy McGuire of the Department of Agriculture;
 - b. All public records, documents, and communications, reflecting the reasons why the No Contact Order was applied to Willow Lake and Timothy McGuire of the Department of Agriculture;
 - c. All public records, documents, and communications, concerning any requests for reasonable accommodations for Willow Lake;

- d. All public records, documents, and communications, concerning Willow Lake's return to work in August 2023 and September 2023;
- e. All public records, documents, and communications, concerning any report or complaint made by Willow Lake of the Department of Agriculture relating to harassment, discrimination, or retaliation;
- f. All public records, documents, and communications, concerning any investigations conducted by the State of Connecticut in response to any report or complaint made by Willow Lake of the Department of Agriculture relating to harassment, discrimination, or retaliation;
- g. All public records, documents, and communications, concerning any witness statements, including signed witness statements, relating to any investigation conducted by the State of Connecticut in response to any report or complaint made by Willow Lake of the Department of Agriculture relating to harassment, discrimination, or retaliation;
- h. All public records, documents, and communications, reflecting field work assignments performed by AMIR¹ employees in the Animal Health, Poultry, and Livestock division, other than Willow Lake, for the period of August 2023 through the date of the Department of Agriculture's compliance with this request;
- i. All public records, documents, and communications, reflecting the AMIR employees who have been invited to weekly meetings of the Animal Health, Poultry, and Livestock division from September 2023 until the date of the Department of Agriculture's compliance with this request;
- j. All public records, documents, and communications, reflecting any field work assignments performed by individuals working in the position of Agriculture Marketing Inspection Representative Supervisor (AMIR Supervisor), other than Willow Lake, during the time period 2021 through 2023;

¹ The Commission notes that "AMIR" is an acronym for Agriculture Marketing and Inspection Representative.

- k. For the time period of 2021 through 2023, timesheets for the following staff:
 - (i) Matthew Snurkowski, Agriculture Marketing and Inspection Representative;
 - (ii) Melissa Sutyla, Agriculture Marketing and Inspection Representative;
 - (iii) MacKenzie White, Agriculture Marketing and Inspection Representative;
 - (iv) Resha Jacquier, Agriculture Marketing and Inspection Representative;
 - (v) Tim McGuire, Agriculture Marketing and Inspection Representative; and
 - (vi) Zachery Tarryk, Agriculture Marketing and Inspection Representative.
- l. For 2021 through 2023, all public records, documents, and communications reflecting individuals who were invited to attend, and individuals who did attend, group meetings (both in person and Teams) for animal health; and
- m. For 2021 through 2023, produce all of the following public records:
 - (i) Livestock complaint reports;
 - (ii) Generally accepted ag² practice complaint reports;
 - (iii) Noise maker complaint reports;
 - (iv) Cervidea Inspections;
 - (v) Live poultry dealer inspections; and
 - (vi) Cruelty neglect investigations done by staff below³ not animal control.

² The Commission believes that “ag” is an acronym for agricultural.

³ The Commission notes that, while the request set forth in paragraph 2.m(vi), above, states that it is followed by a list of “staff”, the request omits such a list.

3. It is found that, by email dated January 22, 2024, the respondents acknowledged the complainant's request.

4. By email dated February 6, 2024 and filed February 7, 2024, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide him with a copy of the requested records.

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. At the first contested case hearing, while the complainant conceded that he had received a minimal number of responsive records, he contended that the respondents had failed to provide him with most of the responsive records. He further contended that the records he received from the respondents had not been provided to him promptly. In response, the respondents contended that, despite their desire to process the request set forth in paragraph 2, above, in a timely fashion, based on their current staffing levels and the number of FOI requests that predated the instant request, they were simply unable to do so.

10. The respondents' Director of Operations and the respondent agency's attorney appeared and testified at both contested case hearings on behalf of the respondents.

11. It is found that, by email dated April 4, 2024, the respondents provided the complainant with some printouts from CORE-CT⁴, which they believed were responsive to the request set forth in paragraph 2.k, above, but explained that they did not maintain a responsive record for 2021 pertaining to the individual identified in paragraph 2.k.(vi), above. It is further found that, later this same day, the respondents provided the complainant with an investigation report responsive to the request set forth in paragraph 2.g, above, and indicated that they had no additional records responsive to such request.

12. It is found that, by email dated April 5, 2024, the complainant indicated that, with respect to timesheets, he was actually seeking the “weekly timesheets” that he believed each of the six individuals identified in paragraph 2.k, above, were required to complete and submit to the respondent agency between 2021 and 2023. It is found that the complainant attached to his April 5 email an exemplar of the weekly timesheets he was seeking.

13. It is found that, by email dated April 8, 2024, the respondents acknowledged receipt of the complainant’s April 5 email and stated that if they had any non-exempt records responsive to the request set forth in paragraph 2.k, above, they would provide such records to the complainant.

14. It is found that, by email dated April 23, 2024, the respondents informed the complainant that they were continuing to process his request. It is further found that the respondents reiterated that, other than the investigation report provided to the complainant on April 5, they maintained no other records responsive to the request set forth in paragraph 2.g, above. See ¶ 11, supra. It is found that the investigation report provided to the complainant on April 5 in connection with the request set forth in paragraph 2.g, above, is also responsive to the requests set forth in paragraphs 2.e, and 2.f, above.

15. It is found that, at the time of the first contested case hearing, 223 days had elapsed since the complainant requested records from the respondents. At such time, it is found that the respondents had only provided the complainant with one responsive investigation report.⁵ Specifically, it is found that, at the time of the first contested case hearing, the complainant had not received any records responsive to the requests set forth in paragraphs 2.a, 2.b, 2.c, 2.d, 2.h, 2.i, 2.j, 2.l, or 2.m, above. It is further found that the complainant had only received the single investigation report in response to the requests set forth in paragraphs 2.e, 2.f, and 2.g, above. Finally, it is found that the complainant had not received the specific timesheets that he had requested in paragraph 2.k, above.⁶

⁴ Core-CT is the software system used by the State of Connecticut for human resources, payroll, and other financial system information regarding Connecticut state employees.

⁵ It is found that, while the investigation report was readily accessible to the respondents, at the time of the first contested case hearing, the respondents had not yet conducted a search for other hardcopy records in their possession.

⁶ The Commission notes the respondent agency’s attorney testified that she believed the respondent agency maintained the specific timesheets requested by the complainant. She indicated, however, that she needed to determine where in the respondents’ electronic records system such timesheets were maintained.

16. It is found that, in January 2024, the respondents provided search terms to the Department of Administrative Services' Bureau of Information Technology ("BITS")⁷, including "Willow Lake"; "harass"; "discrimination"; and "retaliation", and requested that it conduct a search for responsive electronic records in the accounts of all agency employees who would have been involved with or copied on the subject matters set forth in the request. According to the respondents, BITS misplaced the first search that they provided to it. It is found that, in February 2024, the respondents resubmitted the search request to BITS.

17. It is found that, in early April 2024, BITS informed the respondents that the search produced over 36,000 potentially responsive documents. It is found that the respondents immediately refined the search terms and requested that BITS run a second search. It is found that, in mid to late April 2024, BITS ran a second search and provided the respondents with 16,000 potentially responsive documents.

18. At the time of the first contested case hearing, it is found that the respondent agency's attorney had yet to use the agency's Everlaw E-Discovery software to de-duplicate the 16,000 potentially responsive documents, separate out the nonresponsive records, and then use the software to review and redact the remaining records. It is further found that, at the time of such hearing, the respondent agency's attorney still had one additional FOI request involving 2,200 records that she was working on and that such FOI requested predated the instant request.

19. The first contested case hearing was continued so that the respondents could complete the processing of the FOI request that predated the instant request as well as de-duplicate the records responsive to the complainant's request and begin disclosing responsive records to the complainant in this case.

20. It is found that, by the time of the second contested case hearing, which occurred two months following the first contested case hearing, the respondents were in the same position with regard to the processing of the two FOI requests referenced in paragraphs 18 and 19, above, that they had been in at the time first contested case hearing. Specifically, it is found that the respondents had no progress to report regarding the processing of the FOI request that predated the instant request, or regarding the de-duplication of the 16,000 documents that were potentially responsive to the instant request.

21. While the respondents testified that, after the first contested hearing, they were waiting for an investigative report to issue from the Office of Labor Relations⁸ ("OLR") concerning certain matters and employees referenced in the request, and had hoped that the issuance of such report would resolve certain pending matters, including the instant appeal, it is found that the issuance of an investigative report from a separate agency does not toll the respondents' obligation under the FOI Act to disclose public records promptly upon request.

⁷ BITS is currently the agency within the state responsible for conducting electronic records searches on behalf of state agencies.

⁸ It is found that OLR's investigative report issued in late October 2024.

22. It is found that, by order dated December 2, 2024, the presiding hearing officer ordered the respondents to file an affidavit with the Commission by December 9, 2024, detailing the progress made regarding the processing of the two FOI requests referenced in paragraphs 18 and 19, above.

23. It is found that, by affidavit filed December 4, 2024, the respondent agency's attorney averred that the respondents had fully processed the FOI request that predated the instant request. It is further found that the agency's attorney averred that:

Due to the holidays, and the extensive number of documents to review (over 16,000) the preparation will continue into January and the Department intends to complete the request responsive by mid-January 2025.

Such affidavit has been marked as Respondents' Post-Hearing Ex. 2.

24. With regard to whether the respondents have acted promptly in responding to the instant request, this Commission has previously opined that the word "promptly" in §1-210, G.S., means "quickly and without undue delay, taking into account all of the factors presented by a particular request . . . [including] the volume of records requested; the amount of personnel time necessary to comply with the request; the time by which the requester needs the information contained in the records; 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 loss of the personnel time involved in complying with the request." See FOI Commission Advisory Opinion #51 (Jan. 11, 1982). The Commission also recommended in Advisory Opinion #51 that, if immediate compliance is not possible, the agency should explain the circumstances to the requester.

25. It is found that, at the time the instant request for records was received, the respondents had five pending FOI requests, some of which were very large and required the respondent agency's attorney to review thousands of pages of public records. It is further found that, by the time of the first contested case hearing, the respondents had been able to fully process four of the five FOI requests that predated the instant request. It is further found that, at the time the instant request was received, the agency's attorney was also handling all of the respondent agency's legislative responses and was working on three grievances and two pending court matters, in addition to other matters. It is further found that the respondents have only one agency attorney, who is solely responsible for processing FOI requests, and that she, in turn, has no support staff.

26. While the respondents assured the complainant on April 23, 2024 that they were "continuing to process" his request, it is found that such representation rings hollow since as of December 4, 2024—or 225 days following such assurance—the respondents had not processed the request in any way. See ¶¶ 14 and 23, above. It is further found that the provision of records to the complainant had not been completed (and had not even really begun) as of December 4, 2024, at which time 328 days had elapsed since the respondents had received the

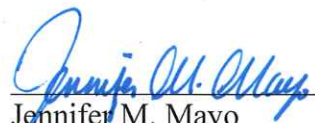
request. See ¶ 23, above. It is further found that the respondent agency's attorney's averment that the respondents needed to review 16,000 documents in order to fully process the instant request overlooks the respondents' representation in the first contested case hearing that, once the documents received from BITS were de-duplicated, the respondents estimated that they would have 8,000 potentially responsive documents to review. It is therefore found that the respondents' compliance with the complainant's request was not prompt.

27. It is concluded that the respondents violated both the promptness and disclosure requirements 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 ninety (90) days of the Notice of Final Decision in this matter, the respondents shall disclose to the complainant all records responsive to the request set forth in paragraph 2 of the findings, above, free of charge.
2. In complying with paragraph 1 of the Order, above, the respondents may redact only those portions of responsive records that are mandatorily exempt from disclosure. No redactions may be made to those portions of the responsive records that are permissibly exempt from disclosure.
3. If the complainant wants to challenge any redactions made in the records the respondents provide to him, he may file a new appeal with the Commission, which will be given priority in assignment.
4. Henceforth, the respondents shall strictly comply with the promptness and disclosure requirements of §§1-210(a) and 1-212(a), G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of January 22, 2025.

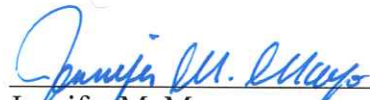

Jennifer M. Mayo
Acting Clerk of the Commission

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:

TODD STEIGMAN, Madsen, Prestley & Parenteau, LLC, 402 Asylum Street, Hartford, CT 06103

COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF AGRICULTURE; AND STATE OF CONNECTICUT, DEPARTMENT OF AGRICULTURE, c/o Attorney Carole Briggs, Department of Agriculture, 450 Columbus Boulevard, Suite 701, Hartford, CT 06103



Jennifer M. Mayo
Acting Clerk of the Commission