

STATE OF CONNECTICUT
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by

FINAL DECISION

Paul Manocchio,

Complainant

against

Docket # FIC 2024-0342

Mayor, Town of Mansfield; and Town of
Mansfield,

Respondents

June 11, 2025

The above-captioned matter was heard as a contested case on October 3, 2024, at which time 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 sent on May 16, 2024, the complainant requested that the respondents provide him with copies of the following records:

a. Text Messages Nov. 22, 2023 - Jan. 1, 2024:

- i. Ben Shaiken to: Toni Moran, Chris Kueffner
- ii. Toni Moran to: Ben Shaiken, Chris Kueffner
- iii. Chris Kueffner to: Ben Shaiken, Toni Moran
- iv. Ryan Aylesworth- all texts 11.22.2023 - 1.01.2024

b. Emails Nov. 22, 2023- Jan. 1, 2024:

- i. CKueffner@mansfieldct.org TO:
moranT@mansfieldct.org; Morantt@earthlink.net;
bshaiken@ctnonprofitalliance.org
- ii. CKueffner@gmail.com TO:
moranT@mansfieldct.org; Morantt@earthlink.net;
bshaiken@ctnonprofitalliance.org
- iii. moranT@mansfieldct.org TO:
CKueffner@mansfieldct.org. CKueffner@gmail.com;
bshaiken@ctnonprofitalliance.org
- iv. Morantt@earthlink.net TO:

- CKueffner@mansfieldct.org, CKueffner@gmail.com;
bshaiken@ctnonprofitalliance.org
v. bshaiken@ctnonprofitalliance.org TO:
Kueffner@mansfieldct.org, CKueffner@gmail.com;
morantT@mansfieldct.org ; MorantT@earthlink.net
vi. ALL emails to and from
AylesworthRJ@mansfieldct.org 11.22.2023-
1.01.2024

c. Aylesworth call log Nov. 22, 2023- Jan. 1, 2024

3. By letter of complaint filed on June 13, 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 May 16, 2024 request.

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 section 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 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.

6. 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.”

7. 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.

8. At the hearing on this matter, the complainant testified, and it is found, that he had received the majority of the records he requested, but there were certain outstanding requests to

which he had not received all responsive records.¹

9. At the hearing on this matter, the Town Clerk testified on behalf of the respondents. Based upon her testimony, it is found that the Town Clerk coordinated the responses to any record requests submitted to the departments and agencies within the Town of Mansfield, including the request described in paragraph 2, above.

10. After reviewing and considering the full Administrative Record following the hearing on this matter, the undersigned hearing officer determined that additional evidence was required with respect to the respondents' search for and disclosure of records. In response to the hearing officer's Orders, the respondents submitted an affidavit of Sara-Ann Chaine, the Town Clerk of the Town of Mansfield filed April 28, 2024 - Respondents' Exhibit 2 (after-filed) as well as a second affidavit of the Town Clerk filed May 27, 2025 – Respondents' Exhibit 3 (after-filed) (together the "Town Clerk's Affidavits").

SEARCH FOR RESPONSIVE RECORDS

11. With respect to the requests for email messages, it is found that the Information Technology ("IT") staff for the Town of Mansfield conducted the search of all town-owned email addresses.

12. It is found that, with respect to the personal cell phones and email addresses of the individuals named in the complainant's requests described in paragraph 2, above, the respective employees and/or elected officials searched their own personal cell phones and email addresses for responsive records.

Text Messages

Paragraphs 2.a.i, 2.a.ii and 2.a.iii Requests

13. With respect to the request described in paragraph 2.a.i., above, seeking text messages from Ben Shaiken to Chris Kueffner, it is found that Mr. Shaiken searched his personal cell phone and provided the respondents with all responsive text communications between Mr. Shaiken and Mr. Kueffner. It is further found that the respondents provided such records to the complainant on June 26, 2024.

14. With respect to the request described in paragraph 2.a.i., seeking text messages from Ben Shaiken to Toni Moran, it is found that Mr. Shaiken initially withheld his text messages to Ms. Moran; however, it is further found that the respondents ultimately provided the complainant with all text messages between Ben Shaiken and Toni Moran on July 22, 2024.

15. It is therefore found that the respondents provided the complainant with all records responsive to the request described in paragraphs 2.a.i., above.²

¹ Each request described in paragraph 2, above, is analyzed below.

² With respect to the request described in paragraph 2.a.i., seeking text messages from Ben Shaiken to Toni Moran, at the hearing on this matter the complainant testified, and it is found, that the respondents initially told him that any

16. With respect to the request described in paragraph 2.a.ii., it is found, based upon the evidence in the Administrative Record and the Town Clerk's Affidavits, that Ms. Moran searched her personal cell phone for responsive records and provided the respondents with all responsive text communications. It also is found that the respondents provided all such responsive texts to the complainant on July 23, 2024 and August 7, 2024.

17. It is therefore found that the respondents provided the complainant with all records responsive to the request described in paragraph 2.a.ii., above.

18. With respect to the request described in paragraph 2.a.iii, above, it is found, based upon the evidence in the Administrative Record and the Town Clerk's Affidavits, that Mr. Kueffner searched his personal cell phone and found no responsive records. It is further found that no records responsive to the request described in paragraph 2.a.iii, above, exist.

19. As a result of the foregoing, it is concluded that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S., with respect to the requests described in paragraphs 2.a.i., 2.a.ii, and 2.a.iii., above.

Paragraph 2.a.iv Request

20. At the hearing on this matter, the complainant testified, and it is found, that the respondents initially informed him that they had no records responsive to the request described in paragraph 2.a.iv, above, and that they claimed that there was no retention requirement for such texts. However, the complainant testified, and it is found, that, in response to a prior records request that was submitted under a different name, he received records that were responsive to the request described in paragraph 2.a.iv., above.³ Therefore, the complainant contended that such texts existed and, if any of the responsive texts no longer existed, the respondents should not have destroyed them.

21. It is found that, after the complainant's May 16, 2024 request, Mr. Aylesworth searched his personal cell phone and located no responsive texts. It is found that, as a result, the respondents initially responded that no records responsive to the request described in paragraph 2.a.iv, above, existed.

22. It is found, however, that the Town Clerk later learned that the IT Department retained a copy of the records that had been disclosed in response to the prior request for similar records described in paragraph 20, above, and thereafter disclosed such records to the complainant prior to the hearing on this matter.

responsive records were exempt from disclosure because they constituted caucus communications. At the hearing on this matter, the respondents then claimed that such records were not "public records" pursuant to *Commissioner of Department of Correction v. Freedom of Info. Comm'n*, 70 Conn. L. Rptr. 196 (2020). However, it is found that the respondents ultimately provided the complainant with all the text messages from Mr. Shaiken to Ms. Moran, responsive to paragraph 2.a.i., above. Accordingly, these claimed exemptions will not be further discussed herein.

³ The Commission notes that the Town Clerk testified that the complainant had submitted such prior records request under a pseudonym.

23. It is found that the respondents provided the complainant with all records maintained by the respondents that are responsive to the request described in paragraphs 2.a.iv, above.

24. With respect to the complainant's contention that additional texts should exist pursuant to the State's retention policy, it is well settled that this Commission does not have jurisdiction over matters relating to the retention and destruction of public records. Rather, authority over such matters rests with the Public Records Administrator, pursuant to §§1-18 and 11-8 through 11-8b, G.S., and with the Office of the State's Attorney, pursuant to §1-240, G.S. *See Jon Schoenhorn v. Commissioner, State of Connecticut, Department of Emergency Services and Public Protection et al.*, Docket #FIC 2022-0598 (October 11, 2023).

25. It is concluded, therefore, that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S., with respect to the request described in paragraph 2.a.iv, above.

Email Messages

Paragraphs 2.b.i through 2.b.v

26. With respect to the request described in paragraph 2.b.i., above, it is found, based upon the evidence in the Administrative Record and the Town Clerk's Affidavits, that the respondents provided all responsive records.

27. With respect to the request described in paragraph 2.b.ii, above, it is found that Mr. Kueffner searched his personal email account and located no responsive emails. It is therefore found that, with respect to described in paragraphs 2.b.ii., above, no responsive records exist.

28. With respect to the request described in paragraph 2.b.iii, above, it is found that the respondents, on October 30, 2024, provided the complainant with all responsive records on a thumb drive, which contained 181 pages of responsive records.

29. With respect to the request described in paragraph 2.b.iv, above, it is found that Ms. Moran searched her personal email account and located no responsive emails. It is therefore found that no records responsive to the request described in paragraph 2.b.iv, above, exist.

30. With respect to the request described in paragraph 2.b.v, above, it is found that Mr. Shaiken searched his personal email account and located no responsive emails. It is therefore found that no records responsive to the request described in paragraph 2.b.v, above, exist.

31. Accordingly, it is concluded that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S., with respect to the requests described in paragraphs 2.b.i through 2.b.v., above.

Paragraph 2.b.vi Request

32. With respect to the request described in paragraph 2.b.vi, above, the Town Clerk testified, and it is found, that the respondents were reviewing approximately 2,000 to 3,000

emails in response to such request and had not provided the complainant with any records responsive to such request as of the date of the hearing.

33. It is found that, on December 12, 2024, the respondents notified the complainant that a total of 2,948 pages of responsive emails and approximately 2,000 pages of attachments were available for him to pickup. It is further found that, on March 5, 2025, the respondents notified the complainant that a total of 3,434 pages of responsive emails and approximately 2,000 pages of attachments were available for him to pickup, but the complainant had not yet retrieved such records as of the date of the Town Clerk's affidavit.

34. It is found that the respondents withheld certain records responsive to the request described in paragraph 2.b.vi., above, claiming that such records are exempt from disclosure under the FOI Act.

35. Based upon the evidence in the Administrative Record and the Town Clerk's Affidavits, it is found that, aside from the withheld records described in paragraph 34, above, which are discussed further below, the respondents provided the complainant with all other records responsive to the request described in paragraph 2.b.v. above.

Call Log

36. With respect to the request described in paragraph 2.c., above, it is found that the respondents provided the complainant with the sole, one-page responsive record and that no other responsive records exist.

37. Accordingly, it is concluded that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S., with respect to the request described in paragraph 2.c., above.

WITHHELD RECORDS

38. On May 20, 2025, in accordance with an order of the hearing officer, the respondents submitted 897 pages of records without redactions for in camera inspection ("in camera records"). The in camera records are identified herein as IC-2024-0342-1 through IC-2024-0342-897.

39. On the index for the in camera records ("Index"), the respondents claimed that the records were exempt from disclosure pursuant to §§1-210(b)(1), 1-210(b)(4), 1-210(b)(10) and/or 1-210(b)(20).⁴

40. It is noted that the respondents included with the in camera records a number of records for which the respondents did not raise a claim of exemption and indicated on the Index

⁴ On the Index, the respondents also claimed that IC-2024-0342-641 to IC-2024-0342-643 were exempt from disclosure pursuant to §1-210(b)(19), G.S. However, since the Commission finds, below, that such record is exempt pursuant to §1-210(b)(20), G.S., it need not analyze this additional exemption claimed by the respondents.

that such records were provided to the complainant. Accordingly, such records will not be further addressed herein.

Section 1-210(b)(10), G.S. (Attorney Client Privilege)

41. The respondents claimed that certain of the in camera records are exempt from disclosure pursuant to §1-210(b)(10), G.S., because such information is protected by the attorney-client privilege.

42. Section 1-210(b)(10), G.S., provides in relevant part that public agencies are not required to disclose “communications privileged by the attorney-client relationship ... or any other privilege established by the common law or the general statutes”

43. Section 52-146r(b), G.S., provides that “[i]n any civil or criminal case or proceeding or in any legislative or administrative proceeding, all confidential communications shall be privileged and a government attorney shall not disclose any such communications unless an authorized representative of the public agency consents to waive the privilege and allow disclosure.”

44. Section 52-146r(a)(2), G.S., defines “confidential communications” to mean:

all oral and written communications transmitted in confidence between a public official or employee of a public agency acting in the performance of his or her duties or within the scope of his or her employment and a government attorney relating to legal advice sought by the public agency or a public official or employee of such public agency from that attorney, and all records prepared by the government attorney in furtherance of the rendition of such legal advice.

45. In *Maxwell v. Freedom of Info. Comm’n*, 260 Conn. 143, 149 (2002), the Connecticut Supreme Court held that §52-146r, G.S., “merely codif[ies] the common law attorney-client privilege as this court previously defined it.” The Court further stated that “both the common-law and statutory privileges protect those communications between a public official or employee and an attorney that are confidential, made in the course of the professional relationship that exists between the attorney and his or her public agency client and relate to legal advice sought by the agency from the attorney.” *Id.*

46. The Supreme Court has adopted a four part test to determine whether communications are subject to the attorney-client privilege: “(1) the attorney must be acting in a professional capacity for the agency; (2) the communications must be made to the attorney by current employees or officials of the agency; (3) the communications must relate to the legal advice sought by the agency from the attorney; and (4) the communications must be made in confidence.” *Shew v. Freedom of Info. Comm’n*, 245 Conn. 149, 159 (1998). “If it is clear from the face of the records, extrinsic evidence is not required to prove the existence of the attorney-client privilege.” *Lash v. Freedom of Info. Comm’n*, 300 Conn. 511, 516-17 (2011).

47. Moreover, in Connecticut, the attorney-client privilege protects both the confidential giving of professional advice by an attorney acting in the capacity of a legal advisor to those who can act on it, as well as the giving of information to the lawyer to enable counsel to give sound and informed advice.” *PSE Consulting, Inc. v. Frank Mercede & Sons, Inc.*, 267 Conn. 279, 329–30 (2004).

48. The Supreme Court, however, has also recognized that “[n]ot every communication between attorney and client falls within the [attorney-client] privilege.” *Harrington v. Freedom of Info. Comm’n*, 323 Conn. 1, 14 (2016) (“*Harrington*”). In *Harrington*, the Court held that, when an attorney provides both legal and nonlegal professional advice, communications containing such advice will be privileged “if the non-legal aspects of the consultation are integral to the legal assistance given and the legal assistance is the primary purpose of the consultation....” *Harrington*, at 17.

49. Upon careful in camera inspection, it is found that the following in camera records are communications “between a public official or employee of a public agency acting in the performance of his or her duties or within the scope of his or her employment and a government attorney,” which “relate to legal advice” sought by the public agency client from the attorney, which were “transmitted in confidence,” or were “records prepared by the government attorney in furtherance of the rendition of such legal advice,” within the meaning of §52-146r(a)(2), G.S.: IC-2024-0342-1 to IC-2024-0342-2; IC-2024-0342-23; IC-2024-0342-35 to IC-2024-0342-67; IC-2024-0342-71 to IC-2024-0342-93; IC-2024-0342-104; IC-2024-0342-116 to IC-2024-0342-119; IC-2024-0342-128 to IC-2024-0342-136; IC-2024-0342-145 to IC-2024-0342-146; IC-2024-0342-159 to IC-2024-0342-160; IC-2024-0342-169; IC-2024-0342-181 to IC-2024-0342-182; IC-2024-0342-198 to IC-2024-0342-207; IC-2024-0342-210 to IC-2024-0342-219; IC-2024-0342-222 to IC-2024-0342-230; IC-2024-0342-233 to IC-2024-0342-240; IC-2024-0342-242 to IC-2024-0342-248; IC-2024-0342-251 to IC-2024-0342-257; IC-2024-0342-261 to IC-2024-0342-267; IC-2024-0342-269 to IC-2024-0342-274; IC-2024-0342-283 to IC-2024-0342-288; IC-2024-0342-295 to IC-2024-0342-300; IC-2024-0342-315; IC-2024-0342-321 to IC-2024-0342-325; IC-2024-0342-328 to IC-2024-0342-333; IC-2024-0342-339 to IC-2024-0342-340; IC-2024-0342-341 to IC-2024-0342-344; IC-2024-0342-346 to IC-2024-0342-349; IC-2024-0342-353; IC-2024-0342-359 to IC-2024-0342-363; IC-2024-0342-368 to IC-2024-0342-371; IC-2024-0342-376; IC-2024-0342-380 to IC-2024-0342-385; IC-2024-0342-402 to IC-2024-0342-406; IC-2024-0342-422 to IC-2024-0342-426; IC-2024-0342-448 to IC-2024-0342-457; IC-2024-0342-461; IC-2024-0342-465; IC-2024-0342-470 to IC-2024-0342-471; IC-2024-0342-475; IC-2024-0342-485 to IC-2024-0342-490; IC-2024-0342-512 to IC-2024-0342-541; IC-2024-0342-544 to IC-2024-0342-546; IC-2024-0342-551 to IC-2024-0342-553; IC-2024-0342-555 to IC-2024-0342-558; IC-2024-0342-569; IC-2024-0342-580; IC-2024-0342-586 to IC-2024-0342-588; IC-2024-0342-592 to IC-2024-0342-593; IC-2024-0342-602; IC-2024-0342-606; IC-2024-0342-610 to IC-2024-0342-619; IC-2024-0342-625 to IC-2024-0342-634 (lines 1-14); IC-2024-0342-644 to IC-2024-0342-646; IC-2024-0342-649 to IC-2024-0342-651; IC-2024-0342-654 to IC-2024-0342-655; IC-2024-0342-658 to IC-2024-0342-659; IC-2024-0342-662 to IC-2024-0342-663; IC-2024-0342-666; IC-2024-0342-669; IC-2024-0342-672 to IC-2024-0342-675 (lines 1-22); IC-2024-0342-679 to IC-2024-0342-684; IC-2024-0342-691 to IC-2024-0342-695 (lines 1-15); IC-2024-0342-698 to IC-2024-0342-701 (lines 1-10); IC-2024-0342-704 to IC-2024-0342-707 (lines 1-15); IC-2024-0342-710 to IC-2024-0342-712 (lines 1-22); IC-2024-0342-715 to IC-2024-0342-717 (lines 1-23); IC-2024-0342-720 to IC-2024-0342-

721; IC-2024-0342-727 to IC-2024-0342-728 (lines 1-19); IC-2024-0342-731 to IC-2024-0342-732 (lines 1-19); IC-2024-0342-740 to IC-2024-0342-745; IC-2024-0342-746 to IC-2024-0342-747 (lines 1-20); IC-2024-0342-749 (lines 1-29); IC-2024-0342-751 to IC-2024-0342-757; IC-2024-0342-779 to IC-2024-0342-793; IC-2024-0342-794 to IC-2024-0342-805; IC-2024-0342-806 to IC-2024-0342-808; and IC-2024-0342-887 to IC-2024-0342-897.

50. It is concluded that the records, or portions thereof, identified in paragraph 49, above, constitute communications or records protected by the attorney-client privilege, within the meaning of §1-210(b)(10), G.S. It is found that the attorney-client privilege has not been waived with respect to such records. Accordingly, it is further concluded that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S., when they declined to disclose a copy of such records, or portions thereof, to the complainant.

51. After careful in camera inspection, it is found that the following records, or portions thereof, that the respondents claimed to be exempt pursuant to §1-210(b)(10), G.S., and protected by the Attorney-Client Privilege on the Index, do not contain any communications “between a public official or employee of a public agency acting in the performance of his or her duties or within the scope of his or her employment and a government attorney,” which “relate to legal advice” sought by the public agency client from the attorney, which were “transmitted in confidence”; nor are they “records prepared by the government attorney in furtherance of the rendition of such legal advice,” within the meaning of §52-146r(a)(2), G.S.: IC-2024-0342-24 to IC-2024-0342-30; IC-2024-0342-94 to IC-2024-0342-103; IC-2024-0342-105 to IC-2024-0342-115; IC-2024-0342-120 to IC-2024-0342-127; IC-2024-0342-137 to IC-2024-0342-144; IC-2024-0342-147 to IC-2024-0342-158; IC-2024-0342-161 to IC-2024-0342-168; IC-2024-0342-170 to IC-2024-0342-179; IC-2024-0342-180; IC-2024-0342-183 to IC-2024-0342-186; IC-2024-0342-187 to IC-2024-0342-197; IC-2024-0342-208 to IC-2024-0342-209; IC-2024-0342-220 to IC-2024-0342-221; IC-2024-0342-231 to IC-2024-0342-232; IC-2024-0342-241; IC-2024-0342-249 to IC-2024-0342-250; IC-2024-0342-258 to IC-2024-0342-260; IC-2024-0342-268; IC-2024-0342-275 to IC-2024-0342-276; IC-2024-0342-277 to IC-2024-0342-282; IC-2024-0342-289; IC-2024-0342-301; IC-2024-0342-316 to IC-2024-0342-317; IC-2024-0342-326 to IC-2024-0342-327; IC-2024-0342-334 to IC-2024-0342-338; IC-2024-0342-345; IC-2024-0342-350; IC-2024-0342-354 to IC-2024-0342-358; IC-2024-0342-364 to IC-2024-0342-367; IC-2024-0342-372 to IC-2024-0342-375; IC-2024-0342-377 to IC-2024-0342-379; IC-2024-0342-458 to IC-2024-0342-460; IC-2024-0342-462 to IC-2024-0342-464; IC-2024-0342-472 to IC-2024-0342-474; IC-2024-0342-476 to IC-2024-0342-484; IC-2024-0342-542 to IC-2024-0342-543; IC-2024-0342-547 to IC-2024-0342-548; IC-2024-0342-549 to IC-2024-0342-550; IC-2024-0342-554; IC-2024-0342-559 to IC-2024-0342-568; IC-2024-0342-570 to IC-2024-0342-579; IC-2024-0342-581; IC-2024-0342-582 to IC-2024-0342-583; IC-2024-0342-589 to IC-2024-0342-591; IC-2024-0342-594 to IC-2024-0342-601; IC-2024-0342-603 to IC-2024-0342-605; IC-2024-0342-607 to IC-2024-0342-609; IC-2024-0342-620 to IC-2024-0342-624; IC-2024-0342-634 (Lines 15- 30) to IC-2024-0342-640; IC-2024-0342-647 to IC-2024-0342-648; IC-2024-0342-652 to IC-2024-0342-653; IC-2024-0342-656 to IC-2024-0342-657; IC-2024-0342-660 to IC-2024-0342-661; IC-2024-0342-664 to IC-2024-0342-665; IC-2024-0342-667 to IC-2024-0342-668; IC-2024-0342-670 to IC-2024-0342-671; IC-2024-0342-675 (lines 23-26) to IC-2024-0342-678; IC-2024-0342-685 to IC-2024-0342-687; IC-2024-0342-695 (lines 16-29) to IC-2024-0342-697; IC-2024-0342-701 (lines 11-28) to IC-2024-0342-703; IC-2024-0342-707 (lines 16-29) to IC-2024-0342-709; IC-2024-0342-712 (lines 23-26) to IC-2024-

0342-714; IC-2024-0342-717 (lines 24-26) to IC-2024-0342-719; IC-2024-0342-722 to IC-2024-0342-726; IC-2024-0342-728 (lines 20-27) to IC-2024-0342-730; IC-2024-0342-747 (lines 21-45) to IC-2024-0342-748; IC-2024-0342-749 (lines 30-43) to IC-2024-0342-750; IC-2024-0342-758 to IC-2024-0342-778; and IC-2024-0342-815 to IC-2024-0342-886.

52. It is therefore concluded that the in camera records described in paragraph 51, above, are not exempt from disclosure pursuant to §1-210(b)(10), G.S. and the attorney-client privilege, as contended by the respondents.

53. It is further concluded that the respondents violated §§1-210(a) and 1-212(a), G.S., when they failed to disclose the following records IC-2024-0342-24 to IC-2024-0342-30; IC-2024-0342-549 to IC-2024-0342-550; IC-2024-0342-634 (Lines 15 - 30) to IC-2024-0342-640; IC-2024-0342-675 (lines 23-26) to IC-2024-0342-678; IC-2024-0342-685 to IC-2024-0342-687; IC-2024-0342-695 (lines 16-29) to IC-2024-0342-697; IC-2024-0342-701 (lines 11-28) to IC-2024-0342-703; IC-2024-0342-707 (lines 16-29) to IC-2024-0342-709; IC-2024-0342-712 (lines 23-26) to IC-2024-0342-714; IC-2024-0342-717 (lines 24-26) to IC-2024-0342-719; IC-2024-0342-722 to IC-2024-0342-726; IC-2024-0342-728 (lines 20-27) to IC-2024-0342-730; IC-2024-0342-747 (lines 21-45) to IC-2024-0342-748; and IC-2024-0342-749 (lines 30-43) to IC-2024-0342-750. The remaining in camera records identified in paragraph 51, above, are further addressed below.

§1-210(b)(4), G.S.

54. With regard to the claim that certain of the in camera records are exempt from disclosure as strategy and negotiations relating to pending litigation, §1-210(b)(4), G.S., provides that disclosure is not required of:

[r]ecords pertaining to strategy and negotiations with respect to pending claims or pending litigation to which the public agency is a party *until such litigation or claim has been finally adjudicated or otherwise settled.*

(Emphasis added.)

55. The phrase “pending claim” as defined in §1-200(8) means:

a written notice to an agency which sets forth a demand for legal relief or which asserts a legal right stating the intention to institute an action in an appropriate forum if such relief or right is not granted.

56. The phrase “pending litigation” as defined in §1-200(9) means:

(A) a written notice to an agency which sets forth a demand for legal relief or which asserts a legal right stating the intention to institute an action before a court if such relief or right is not granted by the agency; (B) the service of a complaint against an

agency returnable to a court which seeks to enforce or implement legal relief or a legal right; or (C) the agency's consideration of action to enforce or implement legal relief or a legal right.

57. The Supreme Court, in *Stamford v. Freedom of Info. Comm'n*, 241 Conn. 310 (1997) ("Stamford"), cited with approval the definitions in Webster's Third New International Dictionary of the words "strategy" and "negotiations" within the meaning of §1-210(b)(4), G.S.:

Strategy is defined as 'the art of *devising or employing plans or stratagems*.' [Emphasis in original] Negotiation is defined as 'the action or process of negotiating,' and negotiate is variously defined as: 'to communicate or confer with another so as to arrive at the settlement of some matter: meet with another so as to arrive through discussion at some kind of agreement or compromise about something'; 'to arrange for or bring about through conference and discussion: work out or arrive at or settle upon by meetings or agreements or compromises'; and 'to influence successfully in a desired way by discussions and agreements or compromises.'

Stamford, at 318.

58. The courts also have recognized that in instances wherein the applicability of an exemption is clear from the face of the record in question, extrinsic evidence is not required to prove such exemption. *See e.g., Lash v. Freedom of Info. Comm'n*, 300 Conn. 511, 515-516 (2011).

59. After careful in camera inspection of the records identified on the Index as "School Building Committee Mansfield Elem. School Litigation (SBC-MES)," which are not protected by the attorney-client privilege, it is found that the following records relate to strategy and negotiations with respect to a "claim" or "litigation," as those terms are defined in §§1-200(8) and 1-200(9), G.S.: IC-2024-0342-94 to IC-2024-0342-103; IC-2024-0342-105 to IC-2024-0342-115; IC-2024-0342-120 to IC-2024-0342-127; IC-2024-0342-137 to IC-2024-0342-144; IC-2024-0342-147 to IC-2024-0342-158; IC-2024-0342-161 to IC-2024-0342-168; IC-2024-0342-170 to IC-2024-0342-179; IC-2024-0342-180; IC-2024-0342-183 to IC-2024-0342-186; IC-2024-0342-187 to IC-2024-0342-197; IC-2024-0342-208 to IC-2024-0342-209; IC-2024-0342-220 to IC-2024-0342-221; IC-2024-0342-231 to IC-2024-0342-232; IC-2024-0342-241; IC-2024-0342-249 to IC-2024-0342-250; IC-2024-0342-258 to IC-2024-0342-260; IC-2024-0342-268; IC-2024-0342-275 to IC-2024-0342-276; IC-2024-0342-277 to IC-2024-0342-282; IC-2024-0342-289; IC-2024-0342-301; IC-2024-0342-316 to IC-2024-0342-317; IC-2024-0342-326 to IC-2024-0342-327; IC-2024-0342-334 to IC-2024-0342-338; IC-2024-0342-345; IC-2024-0342-350; IC-2024-0342-354 to IC-2024-0342-358; IC-2024-0342-364 to IC-2024-0342-367; IC-2024-0342-372 to IC-2024-0342-375; IC-2024-0342-377 to IC-2024-0342-379; IC-2024-0342-445 to IC-2024-0342-447; IC-2024-0342-458 to IC-2024-0342-460; IC-2024-0342-462 to IC-2024-0342-464; IC-2024-0342-472 to IC-2024-0342-474; IC-2024-0342-476 to IC-2024-0342-484; IC-2024-0342-542 to IC-2024-0342-543; IC-2024-0342-547 to IC-2024-0342-548; IC-2024-0342-554; IC-2024-0342-559 to IC-2024-0342-568; IC-2024-0342-570 to IC-

2024-0342-579; IC-2024-0342-581; IC-2024-0342-582 to IC-2024-0342-583; IC-2024-0342-589 to IC-2024-0342-591; IC-2024-0342-594 to IC-2024-0342-601; IC-2024-0342-603 to IC-2024-0342-605; IC-2024-0342-607 to IC-2024-0342-609; IC-2024-0342-620 to IC-2024-0342-624; IC-2024-0342-647 to IC-2024-0342-648; IC-2024-0342-652 to IC-2024-0342-653; IC-2024-0342-656 to IC-2024-0342-657; IC-2024-0342-660 to IC-2024-0342-661; IC-2024-0342-664 to IC-2024-0342-665; IC-2024-0342-667 to IC-2024-0342-668; IC-2024-0342-670 to IC-2024-0342-671; IC-2024-0342-758 to IC-2024-0342-778; and IC-2024-0342-815 to IC-2024-0342-886.

60. However, it is found that it is not clear from the face of the records described in paragraph 58, above, that such claim or litigation was “pending” as of May 16, 2024, the date of the request at issue in this case, as required by §1-210(b)(4), G.S.

61. After reviewing and considering the in camera records, the undersigned hearing officer determined that additional evidence was required with respect to the respondents’ claim that the in camera records described in paragraph 59, above, were exempt from disclosure pursuant to §1-210(b)(4), G.S., and ordered the respondents to submit an affidavit averring whether as of May 16, 2024 the claim or litigation referenced in the in camera records was still pending or the date that the litigation or claim was finally adjudicated or otherwise settled, if applicable.

62. It is found that, in response to the hearing officer’s Order, the respondents submitted a third affidavit of the Town Clerk filed May 28, 2025 - Respondents’ Exhibit 4 (after-filed), averring as follows: “[i]n response to the Hearing Officer's order dated May 28, 2025 regarding the In Camera Index in which the respondents have claimed that certain records described as ‘School Building Committee Mansfield Elem. School Litigation (SBC-MES)’ are exempt from mandatory disclosure pursuant to General Statutes § 1-210(b)(4), *said litigation has concluded.*” (Emphasis added.)

63. It is found that the respondents have failed to prove that, at the time of the request described in paragraph 2, above, the claim or litigation relating to the in camera records described in paragraph 59, above, had not been finally adjudicated or otherwise settled as required by §1-210(b)(4), G.S.⁵

64. It is therefore concluded that the respondents failed to prove that the in camera records described in paragraph 59, above, are exempt from disclosure pursuant to §1-210(b)(4), G.S.

65. In addition, it is found that the following in camera records, or portions thereof, that the respondents claimed to be exempt pursuant to §1-210(b)(4), G.S., do not relate to strategy and negotiations with respect to pending claims and pending litigation, as those terms are defined in §§1-200(8), G.S., and 1-200(9): IC-2024-0342-695 (lines 16-29) to IC-2024-0342-697; IC-2024-0342-701 (lines 11-28) to IC-2024-0342-703; IC-2024-0342-707 (lines 16-29) to IC-2024-0342-709; IC-2024-0342-712 (lines 23-26) to IC-2024-0342-714; IC-2024-0342-722 to IC-2024-0342-726; IC-2024-0342-728 (lines 20-27) to IC-2024-0342-730; IC-2024-0342-732 (lines 20-

⁵ However, it is found that, as of May 28, 2025, such litigation has concluded.

27) to IC-2024-0342-734.

66. It is therefore concluded that the in camera records described in paragraph 65, above, are not exempt from disclosure pursuant to §1-210(b)(4), G.S., as contended by the respondents.

§1-210(b)(10), G.S. (Mediation Privilege)

67. In a post-hearing brief dated June 10, 2025, the respondents contended that the majority of the in camera records referenced in paragraph 59, above, are exempt from disclosure pursuant to §1-210(b)(10), G.S., because such information is protected by the mediation privilege set forth in §52-235d(b), G.S.

68. Section 52-235d provides, in relevant part:

(a) As used in this section, “mediation” means a process, or any part of a process, which is not court-ordered, in which a person not affiliated with either party to a lawsuit facilitates communication between such parties and, without deciding the legal issues in dispute or imposing a resolution to the legal issues, which assists the parties in understanding and resolving the legal dispute of the parties.

(b) Except as provided in this section, by agreement of the parties or in furtherance of settlement discussions, a person not affiliated with either party to a lawsuit, an attorney for one of the parties or any other participant in a mediation shall not voluntarily disclose or, through discovery or compulsory process, be required to disclose any oral or written communication received or obtained during the course of a mediation, unless (1) each of the parties agrees in writing to such disclosure, (2) the disclosure is necessary to enforce a written agreement that came out of the mediation, (3) the disclosure is required by statute or regulation, or by any court, after notice to all parties to the mediation, or (4) the disclosure is required as a result of circumstances in which a court finds that the interest of justice outweighs the need for confidentiality, consistent with the principles of law.

69. After careful in camera inspection of the records identified on the Index as “School Building Committee Mansfield Elem. School Litigation (SBC-MES),” which are not protected by the attorney-client privilege, nor exempt from disclosure pursuant to §1-210(b)(4), G.S., it is found that the following records pertain to oral or written communications received or obtained during the course of a mediation as that term is defined in §52-235d, G.S.: IC-2024-0342-105 to IC-2024-0342-115; IC-2024-0342-137 to IC-2024-0342-144; IC-2024-0342-147 to IC-2024-0342-158; IC-2024-0342-161 to IC-2024-0342-168; IC-2024-0342-170 to IC-2024-0342-179; IC-2024-0342-208 to IC-2024-0342-209; IC-2024-0342-220 to IC-2024-0342-221; IC-2024-0342-231 to IC-2024-0342-232; IC-2024-0342-241; IC-2024-0342-249 to IC-2024-0342-250; IC-2024-0342-258 to IC-2024-0342-260; IC-2024-0342-268; IC-2024-0342-275 to IC-2024-

0342-276; IC-2024-0342-289; IC-2024-0342-301; IC-2024-0342-326 to IC-2024-0342-327; IC-2024-0342-345; IC-2024-0342-350; IC-2024-0342-364 to IC-2024-0342-367; IC-2024-0342-372 to IC-2024-0342-375; IC-2024-0342-377 to IC-2024-0342-379; IC-2024-0342-472 to IC-2024-0342-474; IC-2024-0342-476 to IC-2024-0342-484; IC-2024-0342-542 to IC-2024-0342-543; IC-2024-0342-547 to IC-2024-0342-548; IC-2024-0342-554; IC-2024-0342-559 to IC-2024-0342-568; IC-2024-0342-570 to IC-2024-0342-579; IC-2024-0342-581; IC-2024-0342-589 to IC-2024-0342-591; IC-2024-0342-594 to IC-2024-0342-601; IC-2024-0342-603 to IC-2024-0342-605; IC-2024-0342-607 to IC-2024-0342-609; IC-2024-0342-620 to IC-2024-0342-624; IC-2024-0342-647 to IC-2024-0342-648; IC-2024-0342-652 to IC-2024-0342-653; IC-2024-0342-656 to IC-2024-0342-657; IC-2024-0342-660 to IC-2024-0342-661; IC-2024-0342-664 to IC-2024-0342-665; IC-2024-0342-667 to IC-2024-0342-668; IC-2024-0342-670 to IC-2024-0342-671; IC-2024-0342-758 to IC-2024-0342-778; and IC-2024-0342-815 to IC-2024-0342-886.

70. It is further found that none of the provisions in §52-235d(b)(1) through (4), G.S. apply to the in camera records described in paragraph 69, above.

71. It is therefore concluded that the in camera records described in paragraph 69, above, are exempt from disclosure pursuant to §§1-210(b)(10), and 52-235d(b), G.S.

72. Accordingly, it is concluded that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S., when they declined to disclose a copy of the records, or portions thereof, identified in paragraph 69, above, to the complainant.

73. After careful in camera inspection, it is found that the following records do not pertain to oral or written communications received or obtained during the course of a mediation as that term is defined in §52-235d, G.S.: IC-2024-0342-94 to IC-2024-0342-103; IC-2024-0342-120 to IC-2024-0342-127; IC-2024-0342-180; IC-2024-0342-183 to IC-2024-0342-186; IC-2024-0342-187 to IC-2024-0342-197; IC-2024-0342-277 to IC-2024-0342-282; IC-2024-0342-316 to IC-2024-0342-317; IC-2024-0342-334 to IC-2024-0342-338; IC-2024-0342-354 to IC-2024-0342-358; IC-2024-0342-445 to IC-2024-0342-447; IC-2024-0342-458 to IC-2024-0342-460; IC-2024-0342-462 to IC-2024-0342-464; and IC-2024-0342-582 to IC-2024-0342-583.

74. It is therefore concluded that the in camera records described in paragraph 73, above, are not exempt from disclosure pursuant to §§1-210(b)(10), and 52-235d(b), G.S., as contended by the respondents.

§1-210(b)(1), G.S.

75. With respect to the respondents' claim that IC-2024-0342-24 to IC-2024-0342-30 and IC-2024-0342-68 to IC-2024-0342-70 are exempt from disclosure pursuant to §1-210(b)(1), G.S., such provision provides that disclosure is not required of "preliminary drafts or notes provided the public agency has determined that the public interest in withholding such documents clearly outweighs the public interest in disclosure."

76. In *Shew v. Freedom of Info. Comm'n*, the Court ruled that "the concept of preliminary

[drafts or notes], as opposed to final [drafts or notes], should not depend upon...whether the actual documents are subject to further alteration...” but rather “[p]reliminary drafts or notes reflect that aspect of the agency’s function that precede formal and informed decision making.... It is records of this preliminary, deliberative and predecisional process that...the exemption was meant to encompass.” *Shew v. Freedom of Information Commission*, 245 Conn. 149, 165 (1998), citing *Wilson v. Freedom of Info. Comm’n*, 181 Conn. 324, 332 (1989) (“*Wilson*”).

77. It is found that the respondents failed to provide any testimony concerning IC-2024-0342-24 to IC-2024-0342-30 and IC-2024-0342-68 to IC-2024-0342-70 and failed to present evidence of the context, use or meaning of each such record, which is not obvious on their face. Based upon a careful in camera inspection of IC-2024-0342-24 to IC-2024-0342-30 and IC-2024-0342-67 to IC-2024-0342-70, it is found that it is not clear from the face of such records that they are preliminary notes or drafts of the respondents.

78. In light of the foregoing, it is found that the respondents failed to prove that IC-2024-0342-24 to IC-2024-0342-30 and IC-2024-0342-68 to IC-2024-0342-70 constitute “preliminary drafts or notes” within the meaning of §1-210(b)(1), G.S.

79. In addition, §1-210(b)(1), G.S. requires the respondents to prove that they determined that the public interest in withholding such records clearly outweighs the public interest in disclosure. “The statute’s language strongly suggests that the agency may not abuse its discretion in making the decision to withhold disclosure. The agency must, therefore, indicate the reasons for its determination to withhold disclosure and those reasons must not be frivolous or patently unfounded.” *Van Norstrand v. Freedom of Info. Comm’n*, 211 Conn. 339, 345 (1989).

80. It is found that the respondents failed to indicate their reason for not disclosing IC-2024-0342-24 to IC-2024-0342-30 and IC-2024-0342-67 to IC-2024-0342-70. Accordingly, it is found that the respondents failed to prove an essential element of this exemption – that they made a non-frivolous determination that the public interest in withholding such records clearly outweighs the public interest in disclosure.

81. It is therefore concluded that the respondents failed to prove that IC-2024-0342-24 to IC-2024-0342-30 and IC-2024-0342-67 to IC-2024-0342-70 are exempt from mandatory disclosure pursuant to §1-210(b)(1), G.S.

§1-210(b)(20), G.S.

82. The respondents claimed that IC-2024-0342-641 to IC-2024-0342-643 are exempt from disclosure pursuant to §1-210(b)(20), G.S.

83. Section 1-210(b)(20), G.S., provides that disclosure is not required of:

[r]ecords of standards, procedures, processes, software and codes,
not otherwise available to the public, the disclosure of which

would compromise the security or integrity of an information technology system.

84. It is found, after careful in camera inspection, that IC-2024-0342-641 to IC-2024-0342-643 contain standards, procedures and processes not otherwise available to the public. It is further found that the disclosure of such records would compromise the security of an information technology system, and are therefore exempt from disclosure pursuant to §1-210(b)(20), G.S.

85. Accordingly, it is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., by withholding IC-2024-0342-641 to IC-2024-0342-643 from the complainant.

86. Based on the foregoing, it is concluded that the respondents violated §§1-210(a) and 1-212(a), G.S., when they failed to disclose the records, or portions thereof, identified in paragraphs 65, 73, and 81, above.

PROMPTNESS

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

88. 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.”

89. 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 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.

90. Based upon Town Clerk’s testimony, it is found that the respondents had fulfilled 116 records requests from a variety of sources in 2024.

91. It is found that the Town Clerk records each FOI Act request in the respondents’ internal system, assigns each request a number, and she forwards the request to the individuals responsible for searching for responsive records. She also responds in writing to acknowledge each request.

92. It is found that the IT Department conducted a search for the texts and emails that were located on the respondents’ computer server and that the subject individuals searched their personal cell phones and email addresses for responsive records.

93. It is found that each record was reviewed for potential exemptions by the Town Manager and then by the Town Clerk.

94. It is found that the respondents provided responsive records on a rolling basis, on June 10, 2024, June 26, 2024, July 23, 2024, August 7, 2024, October 30, 2024, December 12, 2024, and March 5, 2025.

95. It is found that the respondents provided the complainant with thousands of pages of records.

96. Considering all of the factors, it is found that the respondents promptly provided the complainant with records responsive to the requests described in paragraph 2, above.

97. Accordingly, it is concluded that the respondents did not violate the promptness requirements of §§1-210(a) and 1-212(a), G.S., under the facts and circumstances of this case.

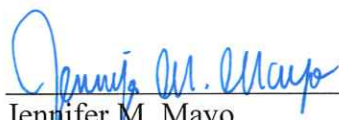
The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. Within thirty days of the date of the Notice of Final Decision in this matter, the respondents shall disclose to the complainant, free of charge, the records, or portions thereof, described in paragraphs 53, 65, 73, and 81 of the findings, above.

2. If the respondents have not already provided the complainant with the records described in paragraph 40 of the findings, above, the respondents shall provide such records to the complainant within seven days of the date of the Notice of the Final Decision in this matter.

3. Henceforth, the respondents shall strictly comply with the 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 June 11, 2025.



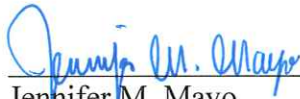
Jennifer M. Mayo
Acting Clerk of the Commission

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:

PAUL MANOCCHIO, 4 Greenway Drive, Brooklyn, CT 06234

MAYOR, TOWN OF MANSFIELD; AND TOWN OF MANSFIELD, c/o Attorney Kevin M. Deneen, O'Malley, Deneen, Leary, Messina & Oswecki, 20 Maple Avenue, Windsor, CT 06095



Jennifer M. Mayo
Acting Clerk of the Commission