

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

John DiIorio,

Complainant,

against

Docket #FIC 2024-0356

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

Respondents

June 11, 2025

The above-captioned matter was heard as a contested case on November 7, 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. By email dated and filed June 18, 2024, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by not complying with a final Commission decision reached in a previous complaint that the complainant filed against the same respondents.
3. The Commission takes administrative notice of the final decision in Docket #FIC 2019-0244; John DiIorio v. Commissioner, State of Connecticut, Department of Banking; and State of Connecticut, Department of Banking (Aug. 12, 2020) (“DiIorio 1”). In DiIorio 1, the Commission found that the complainant sent the respondents a ten-part request for various communication and other records spanning the course of two years. The Commission further found that the respondents acknowledged the request, asked clarifying questions concerning the request, and described the searches that would be undertaken to identify responsive records. The Commission further found that the respondents asked the complainant to respond by January 14, 2019, with any concerns he had with regard to the sufficiency of the proposed searches. The Commission further found that the parties engaged in a series of communications regarding the search process the respondents¹ would

¹ It is found that, while the respondents crafted the searches in DiIorio 1, the Bureau of Information Technology Services, commonly referred to as “BITS”, is the state agency that actually conducted the

undertake to locate responsive records. The Commission further found that the respondents disclosed over 1,600 records to the complainant on April 4, 2019, and submitted 55, 966 records to the Commission for in camera inspection on August 15, 2019. After careful in camera inspection, the Commission determined that almost all of the in camera records were exempt pursuant to the provisions of: 1) §36a-21, G.S. (confidential records maintained by the Department of Banking); 2) §1-210(b)(1), G.S. (preliminary drafts and notes); and 3) §1-210(b)(10), G.S. (attorney-client communications).

4. However, the Commission determined that 1) *four* records were not exempt from disclosure pursuant to the provisions of §36a-21, G.S.; 2) the respondents failed to prove that *three* records were exempt pursuant to the provisions of §1-210(b)(1), G.S.; and 3) *two* records were not exempt pursuant to the provision of either §1-210(b)(1), G.S., or §1-210(b)(10), G.S. Accordingly, the Commission ordered the respondents to provide the complainant with the nine pages of records that it concluded were either not exempt from disclosure, or not proven to be exempt from disclosure, and, going forward, to strictly comply with the disclosure requirements of §§1-210(a) and 1-212(a), G.S. See Dilorio 1, Order at 1, 2.

5. In the instant case, the complainant does not contend that the respondents did not comply with the Commission's disclosure order in Dilorio 1; rather, the complainant takes issue with the searches that the respondents conducted over *six years ago* to locate records responsive to the request in Dilorio 1. Specifically, the complainant contends that, on May 28, 2024, he obtained records from other sources, which he believes should have been provided to him in response to his request for records in Dilorio 1.

6. Based on the evidence in the administrative record of Dilorio 1, it is found that the respondents and the complainant engaged in multiple discussions regarding how the respondents should search for and gather responsive records. It is further found that the hearing officer in Dilorio 1 did not make a finding that the searches conducted in such case were inadequate or not diligent. Moreover, at the November 7, 2024 hearing on this matter, the complainant conceded that, at the time of the contested case hearings in Dilorio 1, the search terms crafted by the respondents "appeared to be sufficient."

7. It is found that it is not productive to attempt to determine at this late date why the various searches that the respondents conducted in Dilorio 1 did not unearth certain records² that the complainant was subsequently able to obtain from other sources. Most importantly, it is found that the complaint in this case does not raise a "non-compliance" issue, as the respondents complied with the Commission's disclosure order in Dilorio 1.

8. Upon receipt of a request for copies of public records, the FOI Act and applicable law require that a public agency conduct a prompt, diligent and thorough search (or searches) for responsive records in all locations where such records are likely to be maintained. See, e.g. Angelo Reyes v. Fire Marshall, City of New Haven, et al., Docket #FIC 2020-0510 (Apr. 27, 2022)

electronic record searches on behalf of the respondents.

² Specifically, it is found that the complainant was able to obtain 11 emails, some of which had attachments, as well as some text messages from other sources.

(dismissing complaint after determining that “the respondents conducted a thorough search of all locations where [the requested] records...would be stored and that no responsive records were located.”); cf. Paul A. Aloia v. Town Manager, Town of Wethersfield, Docket #FIC 2001-221 (Jan. 9, 2002) (finding that the respondent Town Manager failed “to search his office and provide the complainant with records that are kept on file or maintained” in such office and concluding that “the respondent violated the disclosure provisions of §§1-210(a) and 1-212(a), G.S., by failing to promptly provide the complainant with responsive records maintained in [his] office.”).

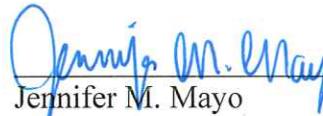
9. The Commission notes that if the complainant believes that the respondents maintain additional records responsive to the request in Dilorio 1, his remedy does not lie in challenging the searches that the respondents conducted in such case; rather, he is free to craft a new request for the records he believes the respondents continue to maintain. See, e.g. Mayor v. Freedom of Info. Comm'n, Docket No. CV-01-0511803-S, 2002 WL 523086, at *4 (Conn. Super. Ct. Mar. 19, 2002) (“There is nothing in the Connecticut FOIA that bars repeating a request to a public agency....”).

10. It is concluded that the respondents did not violate the FOI Act 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 dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of June 11, 2025.



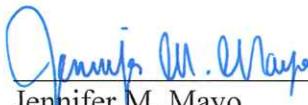
Jennifer M. Mayo
Acting Clerk of the Commission

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:

JOHN DIORIO, 350 Old Watertown Road, Middlebury, CT 06762

COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF BANKING; AND STATE OF CONNECTICUT, DEPARTMENT OF BANKING, c/o Assistant Attorney General John Langmaid, Office of the Attorney General, 165 Capitol Avenue, Hartford, CT 06106



Jennifer M. Mayo
Acting Clerk of the Commission