FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by FINAL DECISION

David C. Wold,

Complainant

against Docket #FIC 2024-0591

Commissioner, Department of Human Services, Town of Greenwich; Department of Human Services, Town of Greenwich; and Town of Greenwich,

Respondents September 10, 2025

The above-captioned matter was heard as a contested case on March 11, 2025, at which time the complainant and respondents appeared 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 on June 7, 2024, the complainant sent the respondents a request for the following records related to a "Discrimination" and/or "equal opportunity" complaint filed against the Town of Greenwich on February 21, 2024, and a "Grievance report" filed on March 5, 2024:

> All emails, electronic communications, announcements, meeting minutes, and/or other correspondence regarding the initial complaint and subsequent 'Grievance report' sent to and/or from Fred Camillo, Lauren Rabin, Janet Stone McGuigan [,and] Kenneth Borsuk between February 21, 2024 and May 17, 2024, both dates included; [and]
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> All [notes,] emails[,] electronic [recordings, or] communications to and/or from [First Selectman, Fred Camillo; Selectwoman Lauren Rabin; Selectperson Janet Stone McGuigan, and First Selectman's Assistant, Ken Borsuk, and the Assistant Town Attorney], with any of the following key words [sic]: "David" or "David C Wold" or

"David Wold" between February 21, 2024 and May 17, 2024, both dates included.

3. It is found that the respondents acknowledged the complainant's request on June 10, 2024, and informed him that it might take several weeks to complete his request.

4. It is found that on June 12, 2024, the respondents submitted the complainant's request described in paragraph 2, above, to the Town's Information Technology ("I.T.") Department for processing.

5. It is found that on June 25, 2024, the Town's I.T. Department, provided the respondents with the records located in response to their query, after which time the respondent, the Commissioner of the Town's Department of Human Services ("GDHS"), reviewed the records.

6. It is found that after reviewing the records located as a result of the I.T. Department's search, the respondent, GDHS Commissioner, made an appointment with the complainant to pick up such records on August 20, 2024.

7. It is found that shortly before the complainant's arrival to pick up the records, the respondent, GDHS Commissioner, realized that several emails were missing, which should have been included.[1] Nevertheless, the respondents provided the complainant with the records they had available and informed the complainant that they would rerun the search to locate any missing records.[2]

8. It is found that on September 10, 2024, the respondents, via the Town's I.T. Department, conducted another search for the records described in paragraph 2, above.[3]

9. By letter of complaint received and filed on September 27, 2024,[4] the complainant alleged that the respondents violated the Freedom of Information ("FOI") Act, by failing to provide all records responsive to his request described in paragraph 2, above.

10. It is found that the Town's I.T. Department provided the respondents with the records located from the search described in paragraph 8, above, in early October 2024. The respondents testified and it is found that the approximate one-month turn around time was due to the Town's I.T. Department needing to process other requests.

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[1] The respondents testified that some emails could have been inadvertently excluded due to the way the complainant phrased his request, described in paragraph 2, above (e.g., the use of certain words in quotation marks).

[2] The respondents attempted to inform the complainant of the issue prior to him coming to pick up the records on August 20, 2024; however, the complainant was already en route by the time they could reach him.

[3] The respondents had asked the Town's I.T. Department to re-run the search prior to September 10, 2024; however, such search was run using the complainant's last name instead of his first name, as requested. Accordingly, the respondents needed to re-run the search for a second time.

[4] Although the respondents first provided the complainant with records on August 20, 2024, the parties continued to correspond regarding the request up to and after, the date the complainant filed his complaint with this Commission.

11. It is found that the search run by the I.T. Department, described in paragraph 8, above, produced over one thousand pages of emails, which were initially reviewed by the respondent, GDHS Commissioner, and then more thoroughly reviewed by the Town's Law Department.[5]

12. It is found that in addition to the searches described in paragraphs 4 through 8, and 10 through 11, above, the respondent, GDHS Commissioner, also searched her personal text messages and found no responsive records. The respondent, GDHS Commissioner, further testified, and it is found, that she did not conduct a search of her personal email accounts as she does not use such accounts to conduct Town business.

13. It is found that on December 5, 2024, the respondents provided the complainant with a partially redacted version of the records described in paragraph 11, above.

14. It is found that after a subsequent review of the redacted portions of the records provided to the complainant on December 5, 2024, the respondents, on February 20, 2025, provided unredacted copies of all records except for one.

15. On March 11, 2025, the respondents submitted to the Commission an unredacted copy of the one record that remained partially withheld from the complainant for in camera inspection (the "in camera record"). The in camera record is fairly described as a single page consisting of email correspondence.

16. The respondents assert that lines 18-37 of the in camera record are exempt from disclosure pursuant to §1-210(b)(10), G.S., (i.e., the attorney-client privilege).

17. 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 …."

18. 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."

19. 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

[5] The respondents testified, and it is found that, although the searches produced a significant number of emails, only a small portion were emails including the respondent, GDHS Commissioner. The majority of the emails came from accounts maintained by other agencies within the Town of Greenwich, not parties to this matter.

> government attorney in furtherance of the rendition of such legal advice.

20. 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.

21. 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).

22. Moreover, "[i]n 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).

23. 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 made clear that:

> [t]he burden of establishing the applicability of the privilege rests with the party invoking it. . . . Any privilege there may be is not a blanket one. The limitation, in connection with this communication, frames the special relationship that must be found for each document separately considered. . . . Because the application of the attorney-client privilege tends to prevent the full disclosure of information and the true state of affairs, it is both narrowly applied and strictly construed.

Harrington, at 12.

24. Specifically, Connecticut courts have long recognized that "a client's identity and information related to where and when a client has conversations with his or her attorney do not fall within the attorney client privilege." See Clerk of Common Council v. Freedom of Info. Comm'n, 215 Conn. App. 404, 420-21 (2022); see also, Ullmann v. State, 230 Conn. 698, 712

(1994) ("the mere fact that a meeting took place between [an attorney] and his client did not constitute a communication and such information is not privileged for that reason"); see also, New Haven v. Freedom of Info. Comm'n, 4 Conn. App. 216, 220 (1985) ("[q]uestions as to where and when a client had conversations with his attorney have been found not to be within the attorney-client privilege.")

25. Upon careful inspection of lines 22-37 of the in camera record, it is found that such lines consist of 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, G.S.

26. It is concluded that lines 22-37 of the in camera record constitute communications or records protected by the attorney-client privilege, within the meaning of §1-210(b)(10), G.S. It is also 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., by not providing such portions of the in camera records to the complainant.

27. It is found, however, that lines 18-20 of the in camera record consist of the "to", "from", and "sent date" of the email described in paragraphs 25 and 26, above. As noted in paragraph 23, above, information related to where and when a client has conversations with his or her attorney do not fall within the attorney client privilege.

28. Additionally, it is found that the contents of line 21 of the in camera record appears unredacted in records provided to the complainant. Accordingly, it is found that the substance of line 21 of the in camera record was actually disclosed by the respondents, thereby waiving the attorney-client privilege. See Berlin Public Schools et al. v. Freedom of Info. Comm'n, judicial district of New Britain, Docket No. CV-15-6029080S, 2016 WL 785578 (February 2, 2016).

29. Accordingly, it is found that lines 18-21 of the in camera record are not privileged attorney-client communications.

30. 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 lines 18-21 of the in camera record to the complainant. [6]

31. The complainant further alleged that the respondents violated the promptness provisions of §§1-210(a) and 1-212(a), G.S. Specifically, the complainant alleged that the

[6] On their in camera index, the respondents only identified lines 18-37 as being privileged attorney-client communications. Nevertheless, Respondents' Exhibit 4 contains a copy of the in camera record almost entirely redacted, except for lines 38-41. It is unclear whether the respondents provided the complainant with lines 1-17 of the in camera record. To the extent such portions of the in camera record were not provided to the complainant, it is found that such lines are not privileged attorney-client communications and should be provided to the complainant in the manner set forth in the Commission's Order below.

records provided by the respondents contained numerous records that were not responsive to his request described in paragraph 2, above, and the inclusion thereof attributed to the delay in his receipt of records that were responsive to his request.

32. It is found that the respondents reasonably interpreted the complainant's records request described in paragraph 2, above, and conducted a thorough and diligent search for responsive records.[7] It is further found that the respondents were proactive in addressing potential issues and worked with the complainant to refine searches.

33. Moreover, 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."

34. 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.

35. It is found that although approximately five months[8] passed between the complainant's request and the respondents' production of records to the complainant, such time is reasonable under the circumstances. For instance, the respondents: (i) experienced delays in receiving the search results from the I.T. Department (despite promptly submitting search requests); (ii) re-ran searches after discussion with the complainant; and (iii) conducted a substantive review of a voluminous number of records. Accordingly, based on the specific facts

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[7] At the March 11, 2025 hearing, the complainant alleged that emails and text messages from the personal accounts and devices of certain individuals (specifically, the First Selectman), were not included in the records provided by the respondents. Later at that hearing, however, the complainant clarified that he was seeking correspondence between the respondent, GDHS Commissioner, and the individuals listed in his request. Moreover, the complainant's request described in paragraph 2, above, was only sent to the respondent, GDHS Commissioner, the sole individually named respondent in this matter. Accordingly, the only records over which the Commission has jurisdiction in this matter are those correspondence sent or received by the respondent, GDHS Commissioner. As noted in paragraph 12, above, the respondent, GDHS Commissioner, searched her text messages and found no responsive records and does not use personal email accounts to conduct Town business.

[8] The approximately five months refers to the period between the complainant making his request described in paragraph 2, above, and the respondents providing him records on December 5, 2024. As noted in paragraph 14, above, the respondents, on February 20, 2025, provided the complainant with an unredacted version of all records contained in their December 5 disclosure, except for one (i.e., the in camera record.) The respondents testified that they reassessed the redactions made after discussion with the ombudsman in this matter. Pursuant to Regs. Conn. State Agencies §1-21j-29, "[n]either the ombudsman nor any party in a contested case shall communicate the contents of any communication made or received in the course of the ombudsman process without the express consent of all parties." As neither side has expressly consented, communications between the parties and the ombudsman will not be considered.

and circumstances of this case, it is found that the respondents acted in good faith to produce records in a prompt manner.

36. It is concluded, therefore, that the respondents did not violate the promptness provisions 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 fourteen 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 paragraph 30, of the findings, above.

2. 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 September 10, 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:

DAVID C. WOLD, 45 Gerry Street, Greenwich, CT 06830

COMMISSIONER, DEPARTMENT OF HUMAN SERVICES, TOWN OF GREENWICH; **DEPARTMENT OF HUMAN SERVICES, TOWN OF GREENWICH**; **AND TOWN OF GREENWICH**, c/o Attorney Abby R. Wadler, Town of Greenwich, 101 Field Point Road, Greenwich, CT 06830

Jennifer M. Mayo
Acting Clerk of the Commission

FIC 2024-0591/FD/JMM/September 10, 2025