

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Keith Massimino,

Complainant

against

Docket # FIC 2025-0911

Town Attorney, Law Department, Town of
Wallingford; Law Department, Town of
Wallingford; and Town of Wallingford,

Respondents

August 26, 2026

The above-captioned matter was heard as a contested case on May 15, 2026, 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 dated September 26, 2025, the complainant requested from the Town Clerk copies of correspondence among multiple people regarding the meeting minutes of the September 9, 2025 town council meeting.
3. It is found that, by email dated September 27, 2025, the respondent Town Clerk acknowledged the complainant's request.
4. It is found that, by emails dated October 2 and 3, 2025, the complainant requested a status update on his request for records.
5. It is found that, by email dated October 6, 2025, the Town Clerk forwarded the complainant's request to the respondent Town Attorney.
6. It is found that, by email dated October 6, 2025, the Town Attorney emailed the complainant, requesting that he submit his request for records via a different email address. The Commission notes that the name of the email account being used by the complainant to make his request in this matter was "Grande Johnson."

7. It is found that, by email dated October 6, 2025, and addressed to the Town Clerk, the complainant submitted the same request, as described in paragraph 2, above, using a different email address.

8. By complaint dated October 6, 2025, and filed October 9, 2025, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide copies of the requested records described in paragraph 2, above, and by requiring the complainant to submit his request for records using a different email address.

9. It is found that on October 17, 2025, the Town Clerk provided the complainant with a copy of all responsive records.

10. At the contested case hearing on this matter, the complainant acknowledged that he had received a copy of all requested records, as described in paragraph 2, above, but contended that the respondents did not provide the requested records promptly and that requiring him to change his email address, in order to comply with his request, infringed upon his First Amendment rights.

11. The respondents contended that the complainant’s use of the email address “Grande Johnson” was a form of sexual harassment.

12. The respondents’ Town Attorney testified, and it is found, that following the change in email addresses used, she considered the matter entirely within the Town Clerk’s domain, as the Town Attorney’s office did not maintain the records the complainant had requested.

13. The Town Attorney further testified, and it is found, that following an email from the complainant on October 16, 2025, the Town Attorney emailed the Town Clerk to assist in obtaining the records, which were ultimately provided on October 17, 2025, as referenced in paragraph 9, above.

14. It is well established that a public agency “is not required to seek out, or to produce, public records not maintained by that office. . . .” Lemcke v. Freedom of Info. Comm’n, Docket No. HHB-CV23-6083041-S (Conn. Super. Ct. Dec. 19, 2024) (“Lemcke”), citing Lash v. Freedom of Info. Comm’n, 116 App. 171, 187 (2009), *aff’d in part, rev’d in part*, 300 Conn. 511 (2011) (“Lash”).

15. In Lash, the Appellate Court considered whether the First Selectman had a duty to inquire of the town law department as to whether it had possession of any documents that would be responsive to the records request at issue therein. *Id.*, 186. There, the records of the law department were not kept on file by or in the custody of the first selectman’s office but, rather, were maintained by the law department itself. *Id.*, 187. The Appellate Court concluded that:

as a department of the town of Greenwich, it is clear that the law department is an agency in its own right under the administrative supervision of the town attorney. In setting forth disclosure requirements for public agencies, §1-210(a) requires that ‘all records maintained or kept on file by a public agency . . . shall be

public records. . . . ***Each such agency shall keep and maintain all public records in its custody.*** . . .” It is undisputed that the records of the law department are not kept on file by or in the custody of the first selectman’s office but, rather, are maintained by the law department itself. Although both the first selectman and the law department may be public agencies for the purposes of the [FOI Act] . . . as *distinct* public agencies, Lash has no duty to maintain or make available the records of the law department, just as the law department has no duty to maintain or disclose the records of the first selectman.

(Emphasis added). Lash, at 187.

16. It is found that the Town Attorney and the Town Clerk are “distinct public agencies” as described in Lash.

17. As the Court in Lash concluded, a distinct public agency has no obligation to make available public records of another distinct public agency. Lash explicitly applies to different departments within the same town.

18. Moreover, the fact that the Town Attorney helped facilitate the complainant receiving records from the Town Clerk does not create an obligation. See Tim Howard v. Town Manager, Town of Hebron, et al., Docket #FIC 2024-0578 (September 10, 2025).

19. It is concluded, therefore, under the facts and circumstances of this case, and in accordance with Lash, the respondents did not violate the disclosure or promptness provisions of §§1-210(a) and 1-212(a), G.S., with respect to the request described in paragraph 2, above.

20. During summation at the contested case hearing on this matter, the complainant requested the imposition of civil penalties against the respondents. Because there is no violation, consideration of the imposition of civil penalties is not warranted.

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

1. The complaint is hereby dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of August 26, 2026.


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:

KEITH MASSIMINO, c/o Attorney Eva M. Massimino, 39 Calhoun Road, Wallingford, CT 06492

TOWN ATTORNEY, LAW DEPARTMENT, TOWN OF WALLINGFORD; LAW DEPARTMENT, TOWN OF WALLINGFORD; AND TOWN OF WALLINGFORD, c/o Attorney Janis M. Small and Attorney Geoffrey T. Einhorn, Law Department, 45 South Main Street, Wallingford, CT 06492


Jennifer M. Mayo
Acting Clerk of the Commission