

FREEDOM OF INFORMATION COMMISSION
FOR THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Anthony Pulcinella,

Complainant

against

Docket # FIC 2025-0722

Zoning Enforcement Officer, Land Use
Department, Town of Brooklyn; Land Use
Department, Town of Brooklyn; and Town
of Brooklyn,

Respondents

July 8, 2026

The above-captioned matter was heard as a contested case on March 16, 2026, at which time the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint.

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. It is found that, by letter dated May 16, 2025 and mailed to “Town of Brooklyn, 4 Wolf Den Road, Brooklyn, CT 06234, ATTN: Victoria Robinson, ZEO,” the complainant requested a copy of the following records:

all documentary items that are in the possession of the Town of Brooklyn in its records and files that pertain to myself, my family trust and the subdivision of "Partridge Glen" [(“Partridge Glen subdivision”)] from the date of January 1st 2019 forward. Said items that I am requesting are to include but not be limited to, all inter department correspondence, notes, letters, emails, conversations and meetings complete with all pertinent dates and times together with all the names of all those persons involved. I am also requesting all the same information specified herein from the Town to also include all the same information that was originated by and/or interacted with and/or received from the general public.

(“May 16, 2025 request”).

3. It is found that, in his May 16, 2025 request, the complainant also requested that the Zoning Enforcement Officer, Town of Brooklyn (the “ZEO”) “pass on all this information to all department heads and instruct all people that have, may have or should have any information concerning this matter to secure all said information in whole and to safeguard it from

destruction or disappearance.”

4. It is found that, by letter dated July 24, 2025 and emailed to the ZEO, the complainant followed up regarding the status of the May 16, 2025 request.

5. It is found that the ZEO provided the complainant with records on May 21, 2025, which included minutes of the March 5, 2025 meeting of the Planning and Zoning Commission for the Town of Brooklyn (“P & Z Commission”) as well as records related thereto. It is found that the ZEO or her staff provided additional records to the complainant on an unspecified date or dates.

6. By letter of complaint dated August 4, 2025, and received and filed on August 14, 2025, 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 all the records described in the May 16, 2025 request.

7. 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.

8. 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.

9. 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.”

10. 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.

Jurisdiction

11. To the extent that the May 16, 2025 request attempts to seek records from

departments other than the ZEO and her office, as described in paragraphs 2 and 3, above, 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 Conn. App. 171, 187 (2009), *aff’d in part, rev’d in part*, 300 Conn. 511 (2011) (“*Lash*”).

12. 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 delivered to the First Selectman. *Id.*, 186. 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. . . . 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.

13. It is found that the ZEO and the other departments of the Town are “distinct public agencies” as described in *Lash* and that the ZEO has no obligation to make available the public records of other distinct public agencies.

14. Additionally, the Commission has no jurisdiction over any other departments of the Town of Brooklyn in this matter because the complainant solely filed his request with the ZEO. Thus, the Commission’s jurisdiction in the instant matter is limited to determining whether the ZEO met her obligation to disclose public records responsive to the May 16, 2025 request, to the extent her office maintained any such records. *See Marc Lemcke v. Town Clerk, Town of Westport; and Town of Westport*, #FIC 2023-0439, (June 26, 2024) (“It is concluded, therefore, that the Commission’s jurisdiction is limited to determining whether the respondent Town Clerk provided all responsive records it maintained at the time it received the complainant’s . . . request.”).¹

The respondent ZEO’s duty to provide records that she and her office maintain

15. Based on the foregoing, it is found that the respondents have a duty to provide copies

¹ To the extent the complainant desires to obtain copies of public records from any other agency of the Town of Brooklyn, he may submit a public records request directly to such departments. *See Lemcke*.

of the requested records that exist and are maintained by the ZEO and her office.

16. At the hearing on this matter, the ZEO testified, and it is found, that she and her staff searched the files that were located in her office and that they provided the complainant with the results of such searches, which included meeting minutes of the P & Z Commission and records related thereto. See paragraph 5, above. It is also found that, at the time of the May 16, 2025 request, the respondents had contracted with an external vender to digitize their paper records and, as a result, the respondents had transferred many of their paper records to such company to scan. It is found that, upon inquiry by the ZEO, such company informed her that it could not locate any records responsive to the May 16, 2025 request.

17. In addition, the ZEO testified, and it is found, that no texts or other written communications existed that were responsive to the May 16, 2025 request, other than what was provided to the complainant and an email exchange between the ZEO and the Town Attorney for the Town of Brooklyn (“Town Attorney”) from February and March of 2025 (“Town Attorney Email Exchange”), which the respondents withheld because they claimed that the information contained therein was protected by the attorney-client privilege.

18. At the hearing on this matter, the complainant contended that, during the March 5, 2025 meeting of the P & Z Commission, such commission discussed the Partridge Glen subdivision and that, based upon the minutes and a transcript for such meeting, a packet of materials was distributed to the members of the P & Z Commission as well as a letter from the Town Attorney. The ZEO testified, and it is found, however, that she provided the complainant with the public records related to such meeting of the P & Z Commission and that no such letter from the Town Attorney, in fact, existed, aside from the Town Attorney Email Exchange.

19. Based on the foregoing, it is found that the respondents conducted a thorough search for all records responsive to the complainant’s request. It is further found that the respondents provided the complainant with copies of all responsive records that were located as a result of their search efforts, except for the Town Attorney Email Exchange.

Attorney-Client Privilege

20. With respect to the Town Attorney Email Exchange, which the complainant presented as evidence during the hearing on this matter, the complainant testified, and it is found, that he received an unredacted copy of such email from the Town Planner, but he never received a copy from the ZEO in response to his May 16, 2025 request, but he should have because it related to the Partridge Glen subdivision. As described in paragraph 17, above, the respondents contended that they withheld the Town Attorney Email Exchange because it was exempt from disclosure pursuant to the attorney-client privilege.

21. 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 ...”

22. 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.”

23. 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.

24. 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.*

25. 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).

26. 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).

27. Upon careful review of the Town Attorney Email Exchange, it is found that it constitutes 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.

28. It is concluded that the Town Attorney Email Exchange constitutes communications or records protected by the attorney-client privilege, within the meaning of §1-210(b)(10), G.S. It

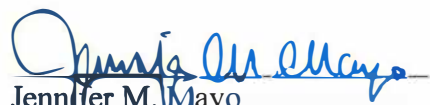
is also found that the attorney-client privilege has not been waived with respect to such records. Accordingly, it is further concluded that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S., when they declined to disclose a copy of the Town Attorney Email Exchange to the complainant.

29. It is therefore concluded that the respondents did not violate the FOI Act as alleged by the complainant.

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 July 8, 2026.

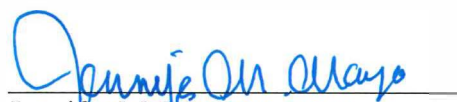

Jennifer M. Mayo
Acting Clerk of the Commission

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:

ANTHONY PULCINELLA, 70 Seaview Avenue, Branford, CT 06405

ZONING ENFORCEMENT OFFICER, LAND USE DEPARTMENT, TOWN OF BROOKLYN; LAND USE DEPARTMENT, TOWN OF BROOKLYN; AND TOWN OF BROOKLYN, c/o Attorney Kenneth R. Slater Jr., Halloran & Sage LLP, 225 Asylum Street, Hartford, CT 06103



Jennifer M. Mayo
Acting Clerk of the Commission