

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

David Bean,

Complainant

against

Docket # FIC 2025-0511

First Selectman, Town of Essex; and Town
of Essex,

Respondents

June 10, 2026

The above-captioned matter was heard as a contested case on March 10, 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 May 5, 2025, the complainant submitted a records request to the respondents seeking:

[a] A list of all residential properties currently classified as “custom,” along with any documentation, rationale, or internal criteria used to determine or justify their classification;

[b] All records, minutes, communications, and appeal outcomes related to the Board of Assessment Appeals [“BAA”] proceedings connected to the October 2023 town-wide revaluation, including documentation specific to [the complainant’s own] appeal and its results; and

[c] Any records or internal communications—including emails, memos or meeting notes—relating to the classification or reclassification of residential properties as part of the October 2023 revaluation, including those involving decreasing tax obligations.

3. It is found that, by email dated May 5, 2025, the respondents acknowledged the complainant’s request.

4. It is found that, by email dated May 5, 2025, the respondents' counsel requested that the complainant withdraw his request for records as he believed the request was for a change in his tax assessment.

5. It is found that, by email dated May 10, 2025, the complainant responded to the respondents' May 5 email, confirming that he wanted to review other BAA records including the appraisals.

6. It is found that, by email dated May 29, 2025, the respondents replied to the complainant's May 10 email. It is found that the respondents apologized for the delay and detailed that they wanted to "get [the complainant's] BAA file, [obtain] some additional information and to confer with the Assessor." It is also found that the respondents indicated that they understood the complainant's request to change the assessment of his property and also quoted the complainant a fee of \$1.00 per page for copies of records.

7. By complaint dated June 21, 2025, and received and filed June 23, 2025, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide the requested records described in paragraph 2, above.

8. 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.

9. 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 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.

10. 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."

11. It is concluded that the records described in paragraph 2, above, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

12. It is found that in July 2025, the respondents provided the complainant with copies of two appeals, one successful and one unsuccessful.

13. It is also found that, on October 10, 2025, the respondents emailed the complainant copies of additional records responsive to his May 5 request, described in paragraph 2, above.

14. It is found that, by email dated January 10, 2026, the complainant emailed respondents' counsel and identified what he considered to be outstanding records.

15. It is found that, by email dated January 15, 2026, the respondents' counsel provided additional records to the complainant.

16. At the contested case hearing in this matter, the complainant contended that the respondents failed to conduct a complete search and failed to produce the requested records promptly. The respondents contended that they acted promptly and had provided all records that they maintained and were responsive to the complainant's request.

17. The complainant testified, and it is found, that he submitted plans as part of his own appeal before the BAA, but the respondents did not include those same plans in the copies of records they provided to him.

18. It is found that for the 2024 appeals, the complainant received copies of decision letters and real estate property information ("Vision Data"), but for the 2023 appeals, the complainant received only copies of the decision letters.

19. The respondents testified, and it is found, that they checked the assessor's files as well as the BAA files and provided copies of all responsive records. The respondents testified, and it is found, that some BAA files contained handwritten notes, but not all, and that they had provided notes when located.

20. The respondents testified, and it is found, that while Vision Data records were available online, the respondents did not include copies of such records with the records that they provided to the complainant.

21. Based on the foregoing, it is found that the respondents failed to prove that they conducted a reasonable and diligent search and provided all records responsive to the request described in paragraph 2, above.

22. It is found, therefore, that the respondents failed to prove that they provided the complainant with a copy of all records responsive to the request described in paragraph 2, above. Accordingly, it is concluded that the respondents violated the disclosure provisions of §§1-210(a) and 1-212(a), G.S., with respect to such request.

23. Finally, with respect to the complainant's contention that the respondents failed to provide him with responsive records promptly, the Commission has defined the word "promptly," as used in §§1-210(a) and 1-212(a), G.S., to mean "quickly and without undue delay, taking into account all of the factors presented by a particular request." See FOI Commission Advisory Opinion #51, In the Matter of a Request for Declaratory Ruling, Third Taxing District of the City of Norwalk, Applicant (Notice of Final Decision dated January 11, 1982) (hereinafter "Advisory Opinion #51").

24. Advisory Opinion #51 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 amount of personnel time necessary to comply with the request; the time by which the requestor needs the information contained in the records; 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.

25. Additionally, in Comm'r of Dep't of Emergency Servs. & Pub. Prot. v. Freedom of Info. Comm'n, No. HHBCV186047741, 2020 WL 5540637, at *3 (Conn. Super. Ct. July 2, 2020), the court explained that a public agency should consider its obligation under the FOI Act as a "primary duty" of that agency, "on par with the [agency's] other significant duties, or said another way, that the agency's FOIA duty is not a second-class duty."

26. It is found that between the May 5 request for records, described in paragraph 2, above, and the first production of records in July 2025, described in paragraph 12, above, the respondents and complainant had on-going email communications about the complainant's request for records.

27. It is found, however, that the respondents presented no evidence about any efforts undertaken to locate additional responsive records between the July 2025 and October 2025 productions of records, described in paragraphs 12 and 13, above.

28. It is also found that there is no evidence to establish that the respondents were hindered by either other agency business or specific time constraints when responding to the complainant's request.

29. Based on the foregoing, it is found that the respondents failed to prove that they provided the complainant with copies of responsive records "quickly" and without "undue delay."

30. Accordingly, it is concluded that the respondents violated the promptness provisions of §§1-210(a) and 1-212(a), G.S.

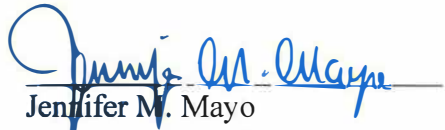
The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. Within thirty (30) days of the date of the Notice of Final Decision, the respondents shall undertake a search for records that are responsive to the complainant's request, described in paragraph 2 of the findings, above. The respondents shall provide the complainant with a copy of such records, free of charge.

2. Within forty-five (45) days of the date of the Notice of Final Decision, the respondents shall also provide to the complainant and the Commission an affidavit, prepared by a person with the requisite knowledge detailing the efforts undertaken to search for and provide such records, and the outcome thereof.

3. Henceforth, the respondents shall strictly comply with the disclosure and promptness 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 10, 2026.

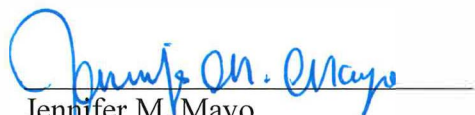

Jennifer M. Mayo
Acting Clerk of the Commission

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:

DAVID BEAN, 14 Heron Pond Road, Essex, CT 06426

FIRST SELECTMAN, TOWN OF ESSEX; AND TOWN OF ESSEX, c/o Attorney David M. Royston, Arch Law Group, 63 Main Street, Old Saybrook, CT 06475



Jennifer M. Mayo
Acting Clerk of the Commission