

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Michael Katzmark,

Complainant

against

Docket # FIC 2025-0486

Don Shea, Manager, Public Works  
Department, Town of Bethany; Public  
Works Department, Town of Bethany; and  
Town of Bethany,

Respondents

May 27, 2026

The above-captioned matter was heard as a contested case on November 18, 2025, at which time the complainant and respondents appeared. At the outset of such hearing, the respondents moved to dismiss the complaint for lack of subject matter jurisdiction. To give the complainant sufficient time to respond on brief, the hearing officer in this matter postponed ruling on such motion and proceeded with the hearing, wherein the parties stipulated to certain facts and presented 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 to the respondent public works manager on October 8, 2024, the complainant made a request for copies of all documents related to “the project” in front of the complainant’s house on Crestwood Road (“October 8, 2024, request”).
3. It is found that, by email on October 9, 2024, the respondent public works manager acknowledged the complainant’s October 8, 2024, request.
4. It is found that, by email on December 27, 2024, the complainant inquired with the respondent public works manager about the status of his October 8, 2024, request (“December 27, 2024, renewed request”).
5. It is found that, by email on April 8, 2025, the complainant inquired with the respondent town’s counsel and first selectwoman about the status of his October 8, 2024, request. It is further found that the complainant copied the respondent public works manager on such email (“April 8, 2025, renewed request”).
6. By email, received and filed over two months later on June 13, 2025, the complainant appealed to this Commission, alleging that, between the dates of October 8, 2024,

and June 13, 2025, the following public officials violated the FOI Act by failing to provide him with “[re]quested copies [of] engineering and planning records as well as financial records for the road work that has taken place on Crestwood Road in Bethany CT”: (a) Public Works Manager Don Shea and (b) First Selectwoman Paula Cofrancesco.<sup>1</sup> The complainant also requested that the Commission consider the imposition of a civil penalty against such public officials.

7. Section 1-200(5), G.S., provides:

"Public 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:

Except 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 (1) inspect such records promptly during regular office or business hours ... or (3) receive a copy of such records in accordance with the provisions of section 1-212.

9. Section 1-212(a), G.S., provides in relevant part: “Any 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.

### **Respondents’ Motion to Dismiss**

11. In their motion to dismiss, the respondents argue that the Commission lacks jurisdiction to hear the complaint in this matter because it was filed more than 30 days after the request was constructively denied by the respondent public works manager.

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<sup>1</sup> Pursuant to §1-21j-30(a), R.C.S.A., on September 19, 2025, the Commission’s executive director docketed the complaint described in paragraph 6(b), above, against first selectwoman Paula Cofrancesco as a separate complaint from the instant matter. Such complaint concerned a May 30, 2025, records request made solely to the first selectwoman by the complainant and was docketed by the Commission as #FIC 2025-0485, Michael Katzmark v. Paula Cofrancesco, First Selectman, Town of Bethany; and Town of Bethany. The complainant withdrew such complaint against the first selectwoman at the October 31, 2025, contested case hearing on #FIC 2025-0485, and the Commission takes administrative notice of such withdrawal.

12. Section 1-206(a), G.S., provides in relevant part:

Any denial of the right to inspect or copy records provided for under section 1-210 shall be made to the person requesting such right by the public agency official who has custody or control of the public record, in writing, within four business days of such request .... Failure to comply with a request to so inspect or copy such public record within the applicable number of business days shall be deemed to be a denial.

(Emphasis added.)

13. Section 1-206(b)(1), G.S., provides in relevant part:

Any person denied the right to inspect or copy records under section 1-210 ... or denied any other right conferred by the [FOI] Act may appeal therefrom to the [FOI] Commission, by filing a notice of appeal with said commission. A notice of appeal shall be filed not later than thirty days after such denial.... For purposes of this subsection, such notice of appeal shall be deemed to be filed on the date it is received by said commission or on the date it is postmarked, if received more than thirty days after the date of the denial from which such appeal is taken.

(Emphasis added.)

14. It is found that, prior to the filing of the complaint described in paragraph 6, above, the respondents did not issue a written denial of the complainant's October 8, 2024, request; or his December 27, 2024, renewed request; or his April 8, 2025, renewed request.

15. For purposes of §§1-206(a) and 1-206(b)(1), G.S., the following is therefore found:

- (a) the complainant's October 8, 2024, request is deemed to have been denied on October 16, 2024, four business days from the date the respondents received the request;
- (b) the complainant's December 27, 2024, renewed request is deemed to have been denied on January 6, 2025, four business days from the date the respondents received the request; and
- (c) the complainant's April 8, 2025, renewed request is deemed to have been denied on April 15, 2025, four business days from the date the respondents received the request.

16. It is found that the complainant's complaint to the Commission was sent via email on June 13, 2025, which is 240 days after the October 16, 2024, denial of the complainant's October 8, 2024, request; 158 days after the January 6, 2025, denial of his December 27, 2024, renewed request; and 59 days after the April 15, 2025, denial of his April 8, 2025, renewed request.

17. No evidence exists in the Administrative Record that the complainant renewed his October 8, 2024, request for the records described in paragraph 2, above, at any time other than his December 27, 2024, email, described in paragraph 4, above, and his April 8, 2025, email, described in paragraph 5, above, to the respondent public works manager.

18. Accordingly, it is found that 59 days passed between the complainant's most recent April 8, 2025, renewal of the request at issue and the complainant's June 13, 2025, filing of his complaint in this matter.

19. Based on the foregoing, it is found that the complainant did not file his appeal within 30 days of the denial of his records request at issue in this matter, as required by §1-206(b)(1), G.S.

20. It is therefore concluded that the Commission lacks jurisdiction over the complaint in this matter.

The following order 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 May 27, 2026.

  
Molly Steffes  
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:

**MICHAEL KATZMARK**, c/o Attorney John A. Parese, Parrett, Porto, Parese & Coldwell, P.C., 2319 Whitney Avenue, Hamden, CT 06518

**DON SHEA, MANAGER, PUBLIC WORKS DEPARTMENT, TOWN OF BETHANY; PUBLIC WORKS DEPARTMENT, TOWN OF BETHANY; AND TOWN OF BETHANY**, c/o Attorney Vincent M. Marino, The Marino Law Firm, LLC, 657 Orange Center Road, Orange, CT 06477

  
Molly Steffes  
Acting Clerk of the Commission