

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Danielle Morfi,

Complainant

against

Docket #FIC 2017-0308

First Selectman, Town of North Haven;  
Chairman, Middle School Building  
Committee, Town of North Haven; and  
Town of North Haven,

Respondents

February 14, 2018

The above-captioned matter was heard as a contested case on September 18 and October 23, 2017, at which times the complainant and the 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 the town entered into a contract with Gilbane Building Company (“Gilbane”), as general contractor, to install artificial turf fields at the middle school (“project”), and that, in turn, Gilbane hired several subcontractors, including Sprinturf. By email dated May 18, 2017, the complainant requested from the respondents a copy of the “documents, records, and emails detailing the Sprinturf contract, plans and budget.” It is found that, at the time of this request, the complainant believed there was a contract between the town and Sprinturf, and intended, by her request, to request a copy of that contract, as well as related records.
3. It is found that no contract between the town and Sprinturf exists. However, upon receipt of the complainant’s May 18<sup>th</sup> request, the respondents obtained, from Gilbane, a copy of the contract between Gilbane and Sprinturf, and provided it to the complainant on May 30, 2017. It is also found that, on May 25, 2017, the respondents provided copies of several emails, a toxicology report, and a budget to the complainant, in response to her request.
4. It is found that, by email dated June 1, 2017, the complainant again requested a copy of the contract between the town and Sprinturf, all emails between the town and Sprinturf, all emails between the town and Gilbane, and specified that she was seeking a “detailed budget

breakdown;” the original and any subsequent turf project proposal/plan; and “any assessment and analysis of other options the town explored in advance of choosing artificial...turf....”

5. By email dated June 2, 2017, and filed June 5, 2017, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide her with a copy of records responsive to her May 18<sup>th</sup> request, as clarified by her June 1<sup>st</sup> request.

6. It is found that, on June 8, 2017, the respondents provided to the complainant copies of emails, proposals, and other records responsive to the complainant’s requests.

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, 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 inspect such records promptly during regular office or business hours...or (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 they exist, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

11. At the hearing in this matter, the complainant alleged that, although the respondents provided a copy of some emails between the town and Sprinturf, and between the town and Gilbane, they did not provide a copy of all responsive emails to her. In addition, the complainant claimed that the budget document she received from the respondents was not a “detailed budget breakdown,” and therefore was not the record she requested. She further

alleged that the respondents did not provide a copy of any assessment or analysis of alternative options.

12. The respondents maintained that they conducted a thorough search for all responsive records, and that all such records were provided to the complainant. It is found that the respondents have not claimed any exemption from disclosure for any of the responsive records.

13. The chairman of the respondent building committee testified at the hearing in this matter, and it is found, that he is the sole contact and “point person” for the town with regard to the project. It is found that the chairman searched his own records, all of which are maintained electronically, including his sent and received emails, using appropriate search terms (such as “Sprinturf,” “Gilbane,” “artificial” and “synthetic”). However, it is also found that the chairman did not request that the other members of the building committee search their own emails for communications responsive to the complainant’s request. According to the respondents, the chairman did not make this request because, under the protocol set up by their counsel regarding communications between the town and Gilbane, only the chairman was permitted to have contact with Gilbane.

14. Although it may be true that, under the protocol, no building committee member should have directly communicated with Gilbane about the project, it is found that, in at least one instance, a building committee member did directly email a Gilbane representative, and copied the chairman on such email. Based on this evidence, it is found that it is possible that there may be additional emails between building committee members and Gilbane or Sprinturf, which were not copied to the chairman, and therefore not provided to the complainant. Accordingly, it is found that the respondents failed to prove that they provided all responsive emails to the complainant.

15. However, it is found that all other records maintained by the respondents that are responsive to the requests were provided to the complainant.

16. Based upon the foregoing, it is concluded that the respondents violated the FOI Act by failing to provide all responsive emails to the complainant.

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

1. Forthwith, the respondents shall conduct an additional search for any additional emails between any building committee member and Gilbane and any building committee member and Sprinturf.

2. If additional records are located, the respondents shall immediately provide a copy of such records to the complainant, free of charge. If no such records are located, the respondents shall promptly inform the complainant of this fact, in writing.

3. Henceforth, the respondents shall strictly comply with the 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 February 14, 2018.



Cynthia A. Cannata  
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:

**DANIELLE MORFI**, 194 Clintonville Road, North Haven, CT 06473

**FIRST SELECTMAN, TOWN OF NORTH HAVEN; CHAIRMAN, MIDDLE SCHOOL BUILDING COMMITTEE, TOWN OF NORTH HAVEN; AND TOWN OF NORTH HAVEN**, c/o Attorney William A. Ryan, 900 Chapel Street, Suite 621, New Haven, CT 06510



Cynthia A. Cannata  
Acting Clerk of the Commission