

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Jeff Winter

Complainant

against

Docket #FIC 2017-0311

Peter Bass, as Member, Town
Council, Town of New Milford,
Town Council, Town of New
Milford; and Town of New Milford,

Respondents

November 9, 2017

The above-captioned matter was heard as a contested case on August 7, 2017, 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 emails dated May 25, and June 2, 2017, the complainant made a request that the respondent, Peter Bass (hereinafter "the councilman"), "make available for public review funding and funding documents for his recent mailing which documents should include invoices for all stationary, printing cost, mailing lists, production, sorting, and additional cost."
3. It is found that the complainant did not receive a response from the councilman.
4. By email dated June 6, 2017, the complainant appealed to this Commission alleging that the councilman had violated the Freedom of Information ("FOI") Act by failing to comply with his request.

5. 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, printed, photostated, photographed or recorded by any other method.

6. Section 1-210(a), G.S., provides in relevant part that:

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, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212.

7. 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.”

8. It is found that the requested records, to the extent they exist and are maintained by the respondent town or the respondent town council, are public records within the meaning of §§1-200(5), 1-210(a) and 1-212(a), G.S.

9. It is found that the councilman mailed a certain letter to constituents in the town which letter the complainant received. It is found that the letter was signed only by the councilman and included a postage paid response postcard on which a constituent could provide contact information and respond to two questions: “The thing I love most about New Milford is...;” and “One thing I would improve about New Milford is....”

10. At the hearing on this matter, the complainant contended that because the letter was issued on green paper, mailed in a green envelope and that because the postcard used the town flag and the stamp on the postcard was a custom stamp of the same flag, there was an intention to make the mailing an “official” mailing. The complainant contended that as an “official” mailing, it should have included a disclosure stating who paid for the mailing. The complainant stated that he made his request because there was no disclosure and that he believed the public had a right to know who paid for the mailing and whether the mailing was paid for with public funds.

11. It is found that, by email dated May 25, 2017, the complainant made a similar request to that described in paragraph 2, above, to the town clerk of the respondent town and that the town clerk forwarded the request to the Finance Director of the respondent town. It is found that both informed the complainant that they had neither knowledge of

or records related to the mailing. It is found, therefore, that the respondent town maintains no records responsive to the complainant's request.

12. It is found, therefore, that no public funds were used to pay for the mailing and that the respondent town maintains no records responsive to the complainant's request.

13. It is found that the mailing was the councilman's personal appeal to residents for input, and was not authorized, or otherwise sanctioned, by the respondent town or the respondent town council. It is also found that the cost of the mailing was borne by the councilman personally.

14. At the hearing on this matter, the councilman testified credibly, and it is found that, he did not keep any records related to the cost for the green paper and envelopes, the custom stamps or the postcards.

15. Under the facts and circumstances of this case, it is found that the respondents do not maintain the requested records.

16. It is concluded, therefore, that the respondents did not violate the disclosure 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. The complaint is hereby dismissed.

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:

JEFF WINTER, 22 Morey Road, New Milford, CT 06776

PETER BASS, AS MEMBER, TOWN COUNCIL, TOWN OF NEW MILFORD; TOWN COUNCIL, TOWN OF NEW MILFORD; AND TOWN OF NEW MILFORD, c/o Attorney Matthew J. Grimes, Jr., Matt Grimes Law Firm, LLC, 11 Orchard Street, Brookfield, CT 06804



Cynthia A. Cannata
Acting Clerk of the Commission