

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Michael Masci,

Complainant

against

Docket #FIC 2018-0579

First Selectman, Town of East  
Haddam; and Town of East Haddam,

Respondents

February 27, 2019

The above-captioned matter was heard as a contested case on December 17, 2018, at which time 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, by letter dated April 15, 2018, and emailed to the respondents on April 16, 2018, the complainant requested from the respondents “a written record or any evidence of all IP addresses, browser information, and similar internet use data; including website names, visited by Public Works Director on all town issued devices; including, but not limited to those stored in an archive drive [from March 1, 2017 through January 15, 2018].”
3. It is found that, by letter dated and emailed to the complainant on April 20, 2018, the respondents acknowledged the request, described in paragraph 2, above, and informed the complainant that his request was being reviewed.
4. It is found that, by email dated September 25, 2018, the complainant requested that the respondents update him as to status of their response to his request.
5. By email dated October 16, 2018, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to disclose the records he requested.
6. 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.

7. 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.

8. 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.”

9. It is found that, by letter dated November 20, 2018, the respondents informed the complainant that they do not maintain any records responsive to his request.

10. At the hearing in this matter, the respondents’ witness, who works for the town providing information technology services, testified that the town’s public works department uses Google Chrome as its web browser, and that internet browsing histories are maintained only for 60 days. According to the witness, 60 days is the default setting, and, because the town does not have any policy regarding the length of time browsing histories must be maintained, the default setting was not changed.

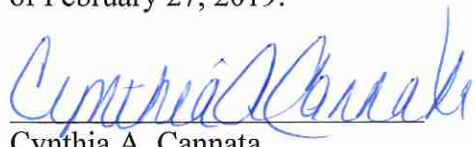
11. Based upon the credible testimony of the respondents’ witness, it is found that the respondents do not presently maintain records responsive to the request, described in paragraph 2, above, and in fact, did not maintain such records even as of the date the complainant requested them.

12. Accordingly, it is concluded that the respondents did not violate the FOI Act as alleged in the complaint.

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

1. The complaint is dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of February 27, 2019.



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:

**MICHAEL MASCI**, PO Box 611, Moodus, CT 06469

**FIRST SELECTMAN, TOWN OF EAST HADDAM; AND TOWN OF EAST HADDAM**, c/o Attorney Kyle A. McClain, Zangari Cohn Cuthbertson Duhl & Grello P.C., 59 Elm Street, Suite 400, New Haven, CT 06510



Cynthia A. Cannata  
Acting Clerk of the Commission