



The Commonwealth of Massachusetts
William Francis Galvin, Secretary of the Commonwealth
Public Records Division

Rebecca S. Murray
Supervisor of Records

March 15, 2018
SPR18/256

Carla Vitale
Winthrop Town Clerk
Winthrop Town Hall
One Metcalf Square, Room 5
Winthrop, MA 02152

Dear Ms. Vitale :

I have received the petition from Matt Belletete appealing the response from the Town of Winthrop (Town) to a request for public records. G. L. c. 66, § 10A; see also 950 C.M.R. 32.08(1). Mr. Belletete is requesting documents relating to property assessments. In the Town's response, the Town directed Mr. Belletete to the Town's website. However, Mr. Belletete asserts the requested information is not available on the website.

Appeal

Under the Public Records Law and the Access Regulations (Regulations) all requests for public records must be met with a response within ten business days of receipt of the request. G. L. c. 66, § 10(a)-(b). The response may contain, among other things, an offer to provide records, a fee estimate for provision of the records, or a denial. G. L. c. 66, § 10(b). All records custodians must comply with both the Public Records Law and the Regulations with respect to the timeliness of response. The duty to comply with requests for records extends to those records that exist and are in the possession, custody, or control of the custodian of records at the time of the request. See G. L. c. 66, § 10(a)(ii), (b)(ii). Also, the duty to comply with requests for records extends to identifying the agency or municipality that may be in possession, custody, or control of the public record sought, if known. See G. L. c. 66, § 10(b) (iii).

It is the burden of the records custodian to demonstrate the application of an exemption in order to withhold a requested record. G. L. c. 66, § 10(b)(iv) (written response must "identify any records, categories of records or portions of records that the agency or municipality intends to withhold, and provide the specific reasons for such withholding, including the specific exemption or exemptions upon which the withholding is based..."); 950 C.M.R. 32.06(3); see also Dist. Attorney for the Norfolk Dist. v. Flatley, 419 Mass. 507, 511 (1995) (custodian has the burden of establishing the applicability of an exemption).

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It is unclear whether there are records responsive to this request. If the Town is withholding the requested information it must identify the withheld information, cite an exemption as the basis of the withholding and explain why the exemption applies. See G. L. c. 66, § 10(b)(iv).

Conclusion

Accordingly, the Town is ordered to review the requests made by Mr. Belletete and provide a response to Mr. Belletete, made in accordance with the Public Records Law, its Access Regulations and this order within ten business days. A copy of any such response must be provided to this office. It is preferable to send an electronic copy of this response to this office at pre@sec.state.ma.us. If unresolved issues remain, Mr. Belletete may appeal the substantive nature of the Department's response within ninety days. See 950 C.M.R. 32.08(1).

Sincerely,

A handwritten signature in black ink that reads "Rebecca Murray". The signature is written in a cursive, flowing style. A horizontal dotted line is drawn across the page, passing through the middle of the signature.

Rebecca S. Murray
Supervisor of Records

cc: Mr. Matt Belletete