



The Commonwealth of Massachusetts

William Francis Galvin, Secretary of the Commonwealth
Public Records Division

Shawn A. Williams
Supervisor of Records

May 14, 2015
SPR15/262

Ms. Stacy DiChiara
Human Resource Manager
Town of Winthrop Town Hall
One Metcalf Square
Winthrop, Ma 02152

Dear Ms. Dichiarra:

I have received the petition of Ms. Carla Vitale appealing the response of the Town of Winthrop (Town) to her request for public records. G. L. c. 66 § 10(b); see also 950 C.M.R. 32.08(2). Specifically Ms. Vitale requested copies of Personnel Action Forms regarding 11 Town employees. In a response dated April 18, 2015 the Town denied providing the responsive records citing Exemption (c), the privacy exemption of the Public records Law. The Town provided no additional information to support its exemption claim.

The Public Records Law strongly favors disclosure by creating a presumption that all governmental records are public records. G. L. c. 66, § 10(c); 950 C.M.R. 32.08(4). "Public records" is broadly defined to include all documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee of any town of the Commonwealth, unless falling within a statutory exemption. G. L. c. 4, § 7(26). Public records and any non-exempt, segregable portions thereof, are subject to mandatory disclosure upon request. G. L. c. 66, § 10(a); see also Reinstein v. Police Comm'r of Boston, 378 Mass. 281, 289-90 (1979) (the statutory exemptions are not blanket in nature).

The Public Records Law states that "the burden shall be upon the custodian to prove *with specificity* the exemption which applies." G. L. c. 66, § 10(c) (*emphasis added*). See also Globe Newspaper Co. v. Police Comm'r, 419 Mass. 852, 857 (1995); District Attorney for the Norfolk Dist. v. Flatley, 419 Mass. 507, 511 (1995). The response by the Town did not contain the specificity required in a denial of access to public records. To comply with the Public Records Law and its Regulations a records custodian must provide specificity with respect to any denial of access to public records. This requires a records custodian to not only cite an exemption, but to specifically explain the applicability of the exemption to the requested records.

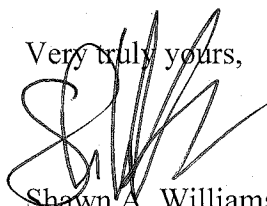
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I find the Town has failed to meet its burden of specificity in denying access to public records. Accordingly, the Town is hereby ordered to provide all responsive records to Ms. Vitale in a manner consistent with this order, the Public Records Law and its Regulations. If the Town maintains that any portion of the responsive records are exempt from disclosure it must, within ten (10) days provide to Ms. Vitale a written explanation, *with specificity*, how a particular exemption applies to each record.

This administrative appeal is now closed.

Very truly yours,

A handwritten signature in black ink, appearing to read 'S. Williams', is written over the typed name.

Shawn A. Williams
Supervisor of Records

cc: Ms. Carla Vitale