



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

Rebecca S. Murray
Supervisor of Records

February 22, 2017
SPR17/206

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

Dear Ms. Vitale:

I have received the petition of Dawn Manning appealing the response of the Town of Winthrop - Town Clerk (Town) to a request for public records. G. L. c. 66 § 10A; see also 950 C.M.R. 32.08(1). Specifically, Ms. Manning requested "a copy of the top 200 employees of the town...names and corresponding salaries." Initially, on February 14, the Town provided a response with a fee estimate. Objecting to the fee estimate, Ms. Manning petitioned this office.

Fee estimates

A municipality may assess a reasonable fee for the production of a public record except those records that are freely available for public inspection. G. L. c. 66, § 10(d). The fees must reflect the actual cost of complying with a particular request. Id. A maximum fee of five cents (\$.05) per page may be assessed for a black and white single or double-sided photocopy of a public record. G. L. c. 66, § 10(d)(i).

Municipalities may not assess a fee for the first (two) 2 hours of employee time to search for, compile, segregate, redact or reproduce the record or records requested unless the municipality has 20,000 people or less. G. L. c. 66, § 10(d)(iii). Whereas the Town's fee estimate determined that it will only need 1.5 hours to compile the responsive records, the total fee estimate of \$69.23 should be waived to the requester. Additionally the Town indicated that the hourly rate of the lowest paid employee who is capable of search and segregating the records is \$46.15, which is not in compliance with the Public Records Law and its Regulations. Where appropriate, municipalities may include as part of the fee *an hourly rate equal to or less than the hourly rate attributed to the lowest paid employee* who has the necessary skill required to search for, compile, segregate, redact or reproduce a record requested, *but the fee shall not be more than \$25 per hour*. Id. However, municipalities may charge more than \$25 per hour if such rate is approved by the Supervisor of Records under a petition under G. L. c. 66, § 10(d)(iv).

A fee shall not be assessed for time spent segregating or redacting records unless such segregation or redaction is required by law or approved by the Supervisor of Records under a petition under G. L. c. 66, § 10(d)(iv). See G. L. c. 66, § 10(d)(iii); 950 CMR 32.06(4).

To assist in requesting and responding to requests for public records please refer to our publication, *A Guide to the Massachusetts Public Records Law*. This document is available on the Internet, free of charge, at <http://www.sec.state.ma.us/pre/prepdf/guide.pdf>. Attorneys on my staff are available during regular business hours to answer general questions regarding the Public Records Law. In addition, members of my staff will visit a records custodian in person to conduct training workshops on the Public Records Law upon request. Please contact my office directly at the telephone number provided in this determination for further information.

Order

Accordingly, the Town is hereby ordered to provide Ms. Manning with a response to the request, provided in a manner consistent with this order, the Public Records Law and its Regulations within ten (10) 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.

Sincerely,

A handwritten signature in black ink that reads "Rebecca Murray". The signature is fluid and cursive, with the first name "Rebecca" and last name "Murray" clearly distinguishable.

Rebecca S. Murray
Supervisor of Records

cc: Dawn Manning