



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

Manza Arthur
Supervisor of Records

April 12, 2024
SPR24/0971

Denise Quist
Town Clerk
Town of Winthrop
Town Hall
1 Metcalf Square
Winthrop, MA 02152

Dear Ms. Quist:

I have received the petition of G. Stephen Anzuoni appealing the response of the Town of Winthrop (Town) to a request for public records. See G. L. c. 66, § 10A; see also 950 C.M.R. 32.08(1). On February 27, 2024, Mr. Anzuoni, delivered by-hand, a written request for a copy of “[t]he Board of Appeals [Board] Rules – as adopted by the [B]oard pursuant to Chapter 17, section 52.010(B) of the Zoning Bylaws of the [Town].”

Subsequently, it appears the Town provided Mr. Anzuoni with a response, including a responsive record. Unsatisfied with the response, Mr. Anzuoni petitioned this office and this appeal, SPR24/0971, was opened as a result. While this appeal was pending, the Department provided supplemental responses on April 1, and April 9, 2024.

The Public Records Law

The Public Records Law strongly favors disclosure by creating a presumption that all governmental records are public records. G. L. c. 66, § 10A(d); 950 C.M.R. 32.03(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 agency or municipality of the Commonwealth, unless falling within a statutory exemption. G. L. c. 4, § 7(26).

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); 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). To meet the specificity requirement a custodian must not only cite an exemption, but must also state why the exemption applies to the withheld

or redacted portion of the responsive record.

If there are any fees associated with a response a written, good faith estimate must be provided. G. L. c. 66, § 10(b)(viii); see also 950 C.M.R. 32.07(2). Once fees are paid, a records custodian must provide the responsive records.

Current appeal

In his March 26, 2024 petition, Mr. Anzuoni indicates, “[u]pon receiving my [February 27, 2024] record request, the [T]own responded by mailing me a copy of Chapter 17, § 52.010 of its own zoning bylaw. The [T]own did not send me a copy of the rules that the bylaw required the board of appeals to adopt pursuant to 17.52.010(B). . . .”

The Town’s April 1st and April 9th Supplemental Responses

Subsequent to the opening of this appeal, this office received an April 1, 2024 email from the Town Clerk indicating, “[y]es, we did receive this original request and information was mailed to [Mr. Anzuoni]. He then mailed back that he did not want the information that was sent but looking for different information. I was confused as for what he actually wanted so sent his appeal request to our Town Attorney of which he is reviewing. I will contact our Town Attorney immediately for a response and forward all to your office along to [Mr. Anzuoni].”

Further, on April 9, 2024, the Town’s Attorney stated “. . . I will respond directly to Mr. Anzuoni.”

Conclusion

Accordingly, the Town is ordered to provide Mr. Anzuoni 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 the response to this office at pre@sec.state.ma.us. Mr. Anzuoni may appeal the substantive nature of the Town’s response within ninety (90) days. See 950 C.M.R. 32.08(1).

Sincerely,

A handwritten signature in black ink, appearing to read "Manza Arthur", written in a cursive style.

Manza Arthur
Supervisor of Records

cc: G. Stephen Anzuoni
James J. Cipoletta, Esq.