



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

Rebecca S. Murray
Supervisor of Records

December 1, 2020
SPR20/2222

Joanne M. Roomey
Paralegal/Records Access Officer
City of Salem Legal Department
93 Washington Street
Salem, MA 01970

Dear Ms. Roomey:

I have received the petition of Rachel Hazelton Davis appealing the response of the City of Salem Legal Department (City) to a request for public records. G. L. c. 66, § 10A; see also 950 C.M.R. 32.08(1). Specifically, Ms. Hazelton Davis requested all records pertaining to an incident at an identified business establishment and involving a certain police officer. The request involved thirteen (13) enumerated and itemized requests for records. In addition, Ms. Hazelton Davis requested from the City's Legal Department and Mayor's Office three categories of records pertaining to the identified police officer.

Prior appeal

In an October 19, 2020 response, the City provided Ms. Hazelton Davis with records responsive to her Requests Numbered 1, 2, 5, 6, 9, 10, 11, 12 and 13. Unsatisfied with the Department's response, Ms. Hazelton Davis appealed and the prior appeal, SPR20/2027, was opened. In my November 3, 2020 determination, I found that whereas the City intended to provide a subsequent response, I closed SPR20/2027. Ms. Hazelton Davis now appeals the City's November 13, 2020 response pertaining to its redactions under the first clause of Exemption (c) of the Public Records Law.

Active litigation

A review of this matter reveals that the responsive records requested by Ms. Hazelton Davis are related to pending litigation in Essex County Superior Court, stemming from an appeal of a Civil Service Commission decision. See Ryan Davis v. City of Salem Police Department, Docket No. 2077CV00219A (Superior Court, Essex County).

950 C.M.R. 32.08(2)(b) provides in pertinent part:

the Supervisor may deny an appeal for, among other reasons if, in the opinion of the Supervisor: 1. the public records in question are the subjects of disputes in active litigation, administrative hearings or mediation.

Conclusion

In light of the pending litigation in the Essex County Superior Court, I decline to opine any further on the responsive records at this time. See 950 C.M.R. 32.08(2)(b). I consider this administrative appeal closed.

Sincerely,

A handwritten signature in black ink that reads "Rebecca Murray". The signature is written in a cursive, flowing style.

Rebecca S. Murray
Supervisor of Records

cc: Rachel Hazelton Davis
Victoria B. Caldwell, Esq., Assistant City Solicitor