



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

Rebecca S. Murray
Supervisor of Records

December 22, 2020
SPR20/2446

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 Tony Cerda 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, on November 6, 2020, Mr. Cerda requested: “the oaths of office, and public official or surety bonds for Mayor Kim Driscoll, Chief of Police Mary Butler (for each rank), and Sgt. Michael Dunn (for each rank).”

In a November 9, 2020 response, the City asked for clarification regarding the request, stating and indicated that they would provide a response with 10 business days once a clarification was provided.

On November 24th, the City provided Mr. Cerda with a blank facsimile of the oath of office. In response, Mr. Cerda informed you that he requested a certified copy of the actual signed and sealed copies of the oaths and surety bonds. As a result of not being provided with the actual copies of the records pertaining to Mayor Driscoll, Chief of Police Butler and Sgt. Dunn, Mr. Cerda petitioned the Supervisor of Records (Supervisor), and this appeal was opened.

On December 10, 2020, the City provided Mr. Cerda, via email and postal mail, with the signed copies of the oaths of office. The City also informed Mr. Cerda, “[w]e only have surety bonds in place for certain positions in the City such as the Treasurer and Asst. Treasurer, and do not have them for any of the employees listed in your request. We do have insurance coverage that covers public officials and employees – copy attached.”

No duty to create records

Under the Public Records Law, the City is not required to create a record in response to a public records request. In addition, a public employee is not required to answer questions, or do research, or create documents in response to questions. The duty to comply with requests for information extends only to those records that exist and are in the custody of the custodian of records at the time of the request. See G. L. c. 4, § 7(26); see also 32 Op. Att’y Gen. 157, 165 (May 18, 1977).

Conclusion

Whereas the City has provided the responsive records it has in its possession, accordingly, I will consider this appeal closed.

Sincerely,

A handwritten signature in black ink that reads "Rebecca Murray". The signature is written in a cursive style with a large, looped "y" at the end.

Rebecca S. Murray
Supervisor of Records

cc: Tony Cerda