



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

Manza Arthur
Supervisor of Records

April 26, 2023
SPR23/0729

Terie Fleury
Clerk-Treasurer
South Hadley Fire District
144 Newton Street
South Hadley, MA 01075

Dear Ms. Fleury:

I have received the petition of Mary Lou Guarnera appealing the response of the Town of South Hadley (Town) to a request for public records. See G. L. c. 66, § 10A; see also 950 C.M.R. 32.08(1). On March 23, 2023, Ms. Guarnera requested a candidate's "2023 Form CPF M101: statement of organization candidate or candidate's committee municipal form[.]"

Previous Appeal

This request was the subject of a previous appeal. See SPR23/0708 Determination of the Supervisor of Records (April 14, 2023). In my April 14th determination, I closed the administrative appeal when I learned the Town provided a response to Ms. Guarnera on April 10, 2023. Unsatisfied with the Town's response, Ms. Guarnera petitioned this office and this appeal, SPR23/0729, was opened as a result.

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.

The Town's April 10th Response

In its April 10, 2023 response, the Town states "I will not be completing CPF M101."

Based on the Town's response, it is unclear if the Town possesses records responsive to the request. The duty to comply with requests for records extends to those records that exist and are in the possession, custody, or control of the custodian of records at the time of the request. See G. L. c. 66, § 10(a)(ii). To the extent that records exist, I find the Town must provide them in a manner consistent with the Public Records Law or identify an exemption that applies to withhold the records from disclosure. G. L. c. 66, § 10(b). See G. L. c. 66, § 10(a) (records must be provided without unreasonable delay).

Conclusion

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



Manza Arthur
Supervisor of Records

cc: Mary Lou Guarnera