



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

Manza Arthur
Supervisor of Records

August 7, 2025
SPR25/2213

Ryan Witkos
Town Clerk
Town of Hardwick
307 Main Street
Gilbertville, MA 01031

Dear Mr. Witkos:

I have received the petition of Jeffery Smith appealing the response of the Town of Hardwick (Town) to a request for public records. See G. L. c. 66, § 10A; see also 950 C.M.R. 32.08(1). On July 1, 2025, Mr. Smith requested:

- [1] All text messages for the Town Administrator between July 1, 2023 and July 1, 2025[;]
- [2] All telephone call records for the Town Administrator between July 1, 2023 and July 1, 2025[;]
- [3] All emails for the Town Administrator:
 - [a] Between July 1, 2023 and October 1, 2024[;]
 - [b] Between February 13, 2025 and July 1, 2025[.]

On July 2, 2025, Mr. Smith modified all three items of his request to exclude records dated prior to June 8, 2024.

The Town responded on July 14 and July 28, 2025. Unsatisfied with the responses, Mr. Smith petitioned this office and this appeal, SPR25/2213, 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.

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.

The Town's July 14th and July 28th Responses

In its July 14, 2025 response, the Town assessed a fee of \$150.00 to provide Mr. Smith with responsive records. Subsequently on July 14, 2025, Mr. Smith paid the assessed fee.

In its July 28, 2025 response, the Town informed Mr. Smith that it would require up to 15 additional business days from the date of the request to produce the responsive records.

Payment of Fees

Under the Public Records Law, a records custodian is not required to produce responsive records until receipt of payment of a reasonable fee. G. L. c. 66, § 10(a)(iii). Once fees are paid, a records custodian must provide the responsive records. Where it appears the Town has received payment of the reasonable fee, the Town must provide the responsive records. To the extent possible, the Town must provide responsive records on a rolling basis. See G. L. c. 66, § 10(a) (records must be provided without unreasonable delay).

Conclusion

Accordingly, the Town is ordered to provide Mr. Smith 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. Smith may appeal the substantive nature of the Town's response within ninety days. See 950 C.M.R. 32.08(1).

Ryan Witkos
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Sincerely,

A handwritten signature in black ink, appearing to read "Manza Arthur". The signature is fluid and cursive, with the first name "Manza" being more prominent and the last name "Arthur" following in a similar style.

Manza Arthur
Supervisor of Records

cc: Jeffery Smith