

**Subject:** Re: SPR24/1309 - More Material Misrepresentations  
**Date:** Thursday, May 9, 2024 at 11:26:36 AM Eastern Daylight Time  
**From:** Commonwealth Transparency <info@opencommonwealth.org>  
**To:** SEC-DL-PREWEB <SEC-DL-PREWEB@sec.state.ma.us>, Arthur, Manza (SEC) <manza.arthur@sec.state.ma.us>, pre@sec.state.ma.us <pre@sec.state.ma.us>  
**CC:** Dorai, Shirley <sdorai@malDENps.org>, Ligia Noriega <lnoriega@malDENps.org>, Jeffrey.Gottfredsen@sec.state.ma.us <Jeffrey.Gottfredsen@sec.state.ma.us>, Felicia S. Vasudevan <fvasudevan@mhtl.com>, malDENnewsnetwork@gmail.com <malDENnewsnetwork@gmail.com>, publicrecords@cityofmalDEN.org <publicrecords@cityofmalDEN.org>  
**Priority:** High  
**Attachments:** ContractTM.pdf

Greetings:

The CONTRACT OF EMPLOYMENT ***IS*** A CONTRACT. The CONTRACT (attached hereto) at issue is between ***Toni Mertz*** and the ***Malden Public School Committee*** as outlined in the first sentence.

M.G.L. c66, § 6A (b) (i) requires that a Records Access Officer “assist persons seeking public records to identify the records sought;” Attorney Vasudevan’s email below demonstrates the intent and desire of Malden to play word games and withhold and secrete records unless a OpenCommonwealth provided the explicit phrase “employment contract”; Malden specifically excluded the CONTRACT OF EMPLOYMENT from responsive records.

950 C.M.R. 32.06(1)(b) States that OpenCommonwealth was required to include “a reasonable description of the requested record to the records access officer so that the records can be identified and located promptly.” The request at issue here, clearly met the spirit and intent of this requirement.

Despite Attorney Vasudevan’s attempted SPIN on the clearly worded, specific and plain request; Any and all Contracts with Antonietta (a.k.a.Toni Mertz) with her home address ***cannot*** be reasonably interpreted to exclude the contract of employment with the ***specifically named individual (Not a Company).***

The insight provided by Attorney Vasudeva’s email further demonstrates Malden’s bad faith, and efforts to exclude records which would and should be included and have been included in a myriad of responses of other towns, cities and districts as they too plainly read and interpreted the request for any and all contracts with a specifically named individual to include all contracts, including employment contracts.

A plain reading of the request is, and was written clearly, plainly and VERBATIM :

**From:** Commonwealth Transparency <info@opencommonwealth.org>  
**Date:** Monday, April 15, 2024 at 10:02 AM  
**To:** sdorai@malDENps.org <sdorai@malDENps.org>  
**Cc:** Carol Ann Desiderio <cdesiderio@cityofmalDEN.org>  
**Subject:** ~Modification~ Public Record Request under the Massachusetts Public Records Law M.G.L. c66, §§ 10-10A

Greetings:

This is a modification of a prior public records request under the Massachusetts Public Records Law M.G.L. c66, §§ 10-10A:

Please provide the following documents/records in the possession or under the control of your school/district or town/city for the time period **January 1, 2018 through April 15, 2024**:

**Any and all contracts with the following:**

- Accountedge LLC - 3 Meadowlark Farm Lane, Middleton, MA 01949 USA
- Antonietta Mertz (a.k.a. Toni Mertz) - - 28 East Meadow Lane, Middleton, MA 01949 USA
- Kelly DuMont - 3 Meadowlark Farm Lane, Middleton, MA 01949 USA

Any and all payments made to:

- Accountedge LLC - 3 Meadowlark Farm Lane, Middleton, MA 01949 USA
- Antonietta Mertz (a.k.a. Toni Mertz) - - 28 East Meadow Lane, Middleton, MA 01949 USA
- Kelly DuMont - 3 Meadowlark Farm Lane, Middleton, MA 01949 USA

Any and all conflict of interest documents for:

- Accountedge LLC - 3 Meadowlark Farm Lane, Middleton, MA 01949 USA
- Antonietta Mertz (a.k.a. Toni Mertz) - - 28 East Meadow Lane, Middleton, MA 01949 USA
- Kelly DuMont - 3 Meadowlark Farm Lane, Middleton, MA 01949 USA

This argument should be rejected on its face and will not stand the test of scrutiny applied by the Courts in Massachusetts, which is a plain reading of the words.

What other records is Malden withholding based on their selective reading and interpretation of this and other Public Records Requests?

It appears that Malden is handling Public Records Requests from OpenCommonwealth differently than Public Records Requests from other requestors. This is prohibited under Public Record Law; Under the Public Records Law, every requester is treated equally; therefore, even a person who is the subject of the record is not granted any greater access right than any other person. All requestors must be treated the same with respect to the response to their requests.

Malden News Networks request was:

“Please provide any contract, agreement, MOA, MOU, job posting, job description any similar type of record - including all agreed-to or negotiated versions, revisions, and modifications - related to the employment terms, limitations, allowances, compensation, responsibilities (including financial, reporting, special education, grants, grant writing,

legal, litigation, public records, and external relations), goals, work schedule or similar documents in the custody or control of the City of Malden, or any of its controlled or related departments, organizations, corporations or other operations related to employment, compensation or contracting involving payments made to Antonietta ('Toni') Mertz, whether those payments involve Malden or any other Massachusetts municipality or school district.”

They received the contract and other records which are responsive to both records requests on the **very same day** Attorney Vasudevan stated “ First, Malden had no contracts or other documents to provide.”

Additional evidence of this “special treatment” is demonstrated by Attorney Vasudevan’s referring to the requestor as “Mr. Friedman”, not OpenCommonwealth who actually made the request. Specifically identifying Mr. Friedman instead of OpenCommonwealth, clearly demonstrates that OpenCommonwealth is being treated differently than other requestors.

Finally, Attorney Vasudevan makes yet another material misrepresentation; “The other request was for Toni Mertz's employment contract.” The phrase “employment contract” does not appear in their request.

Malden should be held to account for their misrepresentations, withholding and secreting of responsive PUBLIC RECORDS, bad-faith responses and failing to follow the intent and spirit of Public Records Law.

Kindest Regards,

OpenCommonwealth.org

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**From:** Felicia S. Vasudevan <[fvasudevan@mhtl.com](mailto:fvasudevan@mhtl.com)>

**Date:** Thursday, May 9, 2024 at 9:36 AM

**To:** Commonwealth Transparency <[info@opencommonwealth.org](mailto:info@opencommonwealth.org)>

**Cc:** [pre@sec.state.ma.us](mailto:pre@sec.state.ma.us) <[pre@sec.state.ma.us](mailto:pre@sec.state.ma.us)>, Arthur, Manza (SEC) <[manza.arthur@sec.state.ma.us](mailto:manza.arthur@sec.state.ma.us)>, SEC-DL-PREWEB <[SEC-DL-PREWEB@sec.state.ma.us](mailto:SEC-DL-PREWEB@sec.state.ma.us)>, Dorai, Shirley <[sdorai@maldenps.org](mailto:sdorai@maldenps.org)>, Ligia Noriega <[lnoriega@maldenps.org](mailto:lnoriega@maldenps.org)>, [Jeffrey.Gottfredsen@sec.state.ma.us](mailto:Jeffrey.Gottfredsen@sec.state.ma.us) <[Jeffrey.Gottfredsen@sec.state.ma.us](mailto:Jeffrey.Gottfredsen@sec.state.ma.us)>

**Subject:** Re: SPR24/1309 - Material Misrepresentation

To Whom It May Concern:

Mr. Friedman's request was for the contract with a list of companies, not the employment contract of Toni Mertz. We do not have any responsive contracts with those companies. The other request was for Toni Mertz's employment contract. We

were truthful in both requests.

Felicia

On May 8, 2024 4:20 PM, Commonwealth Transparency  
<[info@opencommonwealth.org](mailto:info@opencommonwealth.org)> wrote:

**\*\*\* WARNING: EXTERNAL \*\*\***

Greetings:

Attorney Vasudevan has made material misrepresentations to the Secretary of Public Records. Attached, please find the following documents which were released today (May 8, 2024) to another media and news outlet requesting similar information:

1. The request and the response
2. The CONTRACT which we have sought and which was responsive to this PRR to which Attorney Vasudevan affirmed that “Malden had no contracts or other documents to provide”.
3. Other responsive documents which we have sought and were responsive to this PRR to which Attorney Vasudevan affirmed that “Malden had no contracts or other documents to provide”.

OpenCommonwealth hereby requests that Malden Public Schools and their attorney no longer enjoy the presumption of operating in good faith, and that they be held accountable for making this material misrepresentation to the Secretary of Public Records. Further, OpenCommonwealth requests that the SPR review, reconsider, find and Order that the Malden Public Schools has been acting in bad faith, has been withholding and secreting responsive records behind a myriad of tactics and maneuvers and find and Order that Malden Public Schools provide all responsive records without delay and without charge as they have failed to provide good faith responses.

Regards,

OpenCommonwealth.org

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**From:** Felicia S. Vasudevan <[fvasudevan@mhtl.com](mailto:fvasudevan@mhtl.com)>  
**Date:** Wednesday, May 8, 2024 at 12:02 PM  
**To:** [Jeffrey.Gottfredsen@sec.state.ma.us](mailto:Jeffrey.Gottfredsen@sec.state.ma.us)  
<[Jeffrey.Gottfredsen@sec.state.ma.us](mailto:Jeffrey.Gottfredsen@sec.state.ma.us)>, [pre@sec.state.ma.us](mailto:pre@sec.state.ma.us)  
<[pre@sec.state.ma.us](mailto:pre@sec.state.ma.us)>  
**Cc:** Dorai, Shirley <[sdorai@maldenps.org](mailto:sdorai@maldenps.org)>, Ligia Noriega  
<[lnoriega@maldenps.org](mailto:lnoriega@maldenps.org)>, Commonwealth Transparency  
<[info@opencommonwealth.org](mailto:info@opencommonwealth.org)>

**Subject:** SPR24/1309

To Whom It May Concern:

I am writing on behalf of Malden relative to this appeal. First, Malden had no contracts or other documents to provide. The request still sought emails for which the estimate provided a response based on the searches it conducted. The grounds for redactions were relative to those emails.

Additionally, the response was timely. This request was received on April 15, 2024, which was a holiday. As result, the District received it on April 16, 2024, and responded timely within ten business days on April 30, 2024.

I am happy to provide further information.

Felicia

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party any matters addressed herein.