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30, May 2024

(REVISED)

Attorney Jeffrey Gottfredsen
Office of the Secretary of the Commonwealth
Public Records Division
One Ashburton Place, Room 1719
Boston, MA 02108

RE: SPR 24/1597 -

Good day Attorney Gottfredsen:

This office is responding to Open Commonwealth's appeal in connection with its records request to the City of Malden ("City" or "Malden") on May 20, 2024. The City responds to this appeal and further reserves the right to provide additional information on this matter.

On May 20, 2024, Open Commonwealth (OC) requested "Any and all electronic mail and calendar information exclusively for the tmertz@cityofmalden.org account including any draft and any deleted items:" for the time span of "**any time prior to and through May 21, 2024:**" The City of Malden responded to this request on May 28, 2024 informing OC that its request was not permitted by the public records law because it was excessively broad, citing M.G.L. c. 66, § 10(a)(i); 950 C.M.R. 32.00 as well as *Chawla v. Department of Revenue* (Suffolk Sup. Ct. No. 1784CV02087 fn. 2, January 23, 2019).

ANALYSIS

The Massachusetts public records law, G. L. c. 66, § 10, "give[s] the public broad access to governmental records". *Friedman v. Div. of Admin. L. Appeals*, 103 Mass. App. Ct. 806, 807, 231 N.E.3d 957, 960 (2024); citing *Boston Globe Media Partners, LLC v. Department of Criminal Justice Info. Servs.*, 484 Mass. 279, 281, 140 N.E.3d 923 (2020). This is the general and basic principle of the public records law. However, this principle does not give the public carte blanche access to request records that are not reasonably described and are from a period of the beginning of time to the present. In this instant case, that is essentially the request of OC. This request is outrageously broad.
Attorney Jeffrey Gottfredsen

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As the Court ruled in the *Friedman* case, “... a rule of reason governs both the obligation of public agencies to respond and to provide records, and also the conduct of requestors of public documents.”. *Id* at 807. In this instance, OC’s conduct in its request is unreasonable.

In conducting a precursory search of the records requested by OC, there are at least **Forty-Nine Thousand (49,000)** emails that would be relevant to this search. Sifting through *at the least*, **49,000** emails without OC reasonably describing the records sought, would reduce the City of Malden’s employees to “full-time investigators” on behalf of OC. *Id.* at 816; M.G.L. c. 66, § 10(a)(i). This is not the intent of the public records law.

Per our original response, the City of Malden requests that OC define a scope for the emails sought, or alternatively, the City requests that the Supervisor of Records dismiss this appeal with prejudice.

Sincerely,

Alicia A. McNeil

Alicia A. McNeil, City Solicitor

cc: info@opencommonwealth.org