

Dear Mr. Melanson:

I am in receipt of your records request for a copy of an administrative investigation report prepared for the Town by Billingsgate Associates, LLC, the so-called Parker Report ("Report"). Please be advised that I do have a record that is responsive to your request. However, the Report is over 100 pages in length and includes certain attachments that make it even longer, and there are portions that are exempt from disclosure pursuant to the Public Records Law (detailed below) and the assistance of Town Counsel is required to redact the appropriate portions before a redacted copy can be provided to you. Therefore, I am not providing the record to you with this response, and I am asserting the need for reasonable additional time in accordance with G.L. c.66, §10(b)(vi) and 950 CMR 32.06(2)(i). I anticipate having the record available by the close of business tomorrow, March 21, 2017.

You are advised that we anticipate that portions of the Report will be exempt from disclosure pursuant to "Exemption (f)," set forth at G.L. c.4, §7(26)(f). Exemption (f) applies to:

investigatory materials necessarily compiled out of the public view by law enforcement or other investigatory officials the disclosure of which materials would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest.

One purpose of this exemption is to avoid premature disclosure of investigatory information prior to trial or other process for resolving the matters being investigated, and the prevention of disclosure of confidential investigative techniques, procedures or sources of information. WBZ-TV4 v. District Attorney for the Suffolk District, 408 Mass. 595, 601 (1990); Bougas v. Chief of Police of Lexington, 371 Mass. 59, 62 (1976). In addition, however, Exemption (f) allows the names and identifying details of any voluntary witness and complainant to be redacted and withheld from disclosure. The purpose of such exemption is to allow investigative officials to provide an assurance of confidentiality to persons so that they will speak openly about matters under investigation. Bougas, 371 Mass. at 62; Reinstein v. Police Commissioner of Boston, 378 Mass. 281, 290 (1979).

Note that the Supreme Judicial Court of Massachusetts has held that, "[t]he inquiry as to what constitutes identifying information regarding an individual . . . must be considered not only from the viewpoint of the public, but also from the vantage of those who are familiar with the individual and his career." Id. In other words, the risk of indirect identification must be considered from the vantage of those familiar with the individual and the circumstances at issue. Consequently, details that may identify a witness such as name, address, occupation and relationship to the matter may be withheld from disclosure in order to protect the identities of the voluntary witnesses or complainants.

In addition, there may be portions of the Report that are exempt pursuant to G.L. c.4, §7(26)(c), the so-called privacy exemption. This exemption applies to "materials or data relating to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of personal privacy." Information may be withheld if it constitutes "intimate details" and if the public interest in disclosure is outweighed by the privacy interests associated with disclosure. You will be informed whether any material was redacted pursuant to Exemptions (f) or (c). The Town reserves the right to identify any other exemption that is discovered to apply to portions of the Report.

Pursuant to 950 CMR 32.08, you may appeal this response to the Supervisor of Public Records within 90 calendar days.

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This message (including any attachments) contains confidential information intended for a specific individual and purpose, and is protected by law. If you are not the intended recipient, you should delete this message. In Massachusetts, the term "public record" is broadly defined to include all documentary materials or data created or received by any officer or employee of any governmental unit, regardless of physical form or characteristics unless it falls under one of the statutory exemptions to the Public Records Law MGL Chapter 4, Section 7(26). Consequently, email is subject to the disclosure, retention and maintenance provisions as required by law. MGL Chapter 66