

Kevin D. Batt
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617-621-6514

May 13, 2008

By Electronic and First Class Mail

Rich Stevenson
63 Prescott Road
Concord, MA 01742
rich@concordma.com

Re: *April 14, 2008 Public Records Request*

Dear Mr. Stevenson:

I write in response to your April 14, 2008 request to Concord Town Clerk, Anita Tekle, for certain public records from the Town of Concord (the "Town"). In light of the recent Concord Town Meeting, you agreed in your letter to receive your response within 10 days of the conclusion of the Town Meeting.

Before beginning to gather responsive documents, the Town must provide you with an estimate of the Town's costs to respond to your request. The Commonwealth's public records regulations make you responsible for these costs, and you must pay the Town's estimate before the Town begins to search for the records. Additionally, the actual cost of producing the records might vary once the Town begins preparing the records. If those costs exceed the estimate, you will be responsible for reimbursing the Town for the additional costs before the records are made available. Conversely, if the costs are lower than the estimate, you will be refunded the difference.

The Town's cost estimate for searching for and copying itemized telephone records from January 1, 2007 to April 28, 2008 is \$95.00. This estimate assumes one hour of work by the lowest-paid employee capable of performing the task and approximately 200 pages at \$0.20 per page.

Your request for email raises more significant concerns. Under the regulations governing public records, you must provide a "reasonable description of the desired information." 950 CMR 32.05(4). However, your request broadly asks for any emails "relating to Town business." Without additional information, the Town cannot identify what aspects of "Town business" your request covers. If you are requesting all email,

regardless of subject matter, the extraordinary breadth of your request will impose a substantial burden on the Town and be quite costly. Appropriate staff must review each and every email in order to ensure that emails subject to exemption from disclosure or covered by attorney-client privilege are not released. *See* General Laws c. 4, § 7 (¶ 26). You request email from 1) the five Selectmen, 2) the Town Manager and Assistant Town Manager, and 3) the Town's Planning Division, all for a sixteen month period, broken into four month increments. As a result, the volume of email and the time necessary to review and segregate exempted emails would take hundreds of hours of review by the Selectmen, the Town Manager and Assistant Town Manager, the Planning Director, and their respective administrative staff.

The Town's estimate to complete this review for each of the three source categories for the first four month increment, as well for as the full 16 months, is as follows.

The cost to prepare Selectmen emails for your inspection is estimated to be \$5,250 for a four month period, including over 100 hours of time to review an estimated 4000 email. The cost for the 16 month period would be \$21,000. The cost to prepare the email of the Town Manager and Assistant Town Manager is \$14,573 for four months, including over 160 hours to review an estimated 6400 emails. The cost for the 16 month period would be \$58,292. The cost to prepare the Planning Division email for four months is \$10,800, including over 220 hours to review an estimated 8000 emails. The cost for the 16 month period would be \$43,200. The totals from all three sources would be \$30,623 for the four month period of email and \$122,492 for the 16 month period.

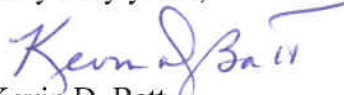
The Town declines your request that the records be produced to you in electronic format. Nothing in the public records law requires the Town to do so. Furthermore, be advised that the above cost estimate is for preparing documents for your inspection only. After you have reviewed the documents and identified those which you wish to have copied, the Town will charge \$.20 per copy. We have not attempted to estimate how many copies you may request, or the cost related thereto.

The Town will begin processing your request for phone records upon receipt of a check for \$95. It will begin processing your request for emails upon payment of the estimated cost for the source and time period that you specify. The number of hours required to review email records for even a four month period of time will severely burden Town officials and staff. Officials and staff will attempt to devote several hours each week to the records review, but the Town cannot commit to a date for completion of the review at this time, in light of the number of hours estimated that the task will take.

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If you would like to narrow the scope of your request to specific records or subjects, please let me know so that the Town may provide you with a revised estimate.

Very truly yours,


Kevin D. Batt

C: Christopher Whelan, Town Manager, Town of Concord
Anita Tekle, Town Clerk, Town of Concord
Marcia Rasmussen, Planning Director
Joanne Shallow, Public Records Division, Massachusetts Secretary of State