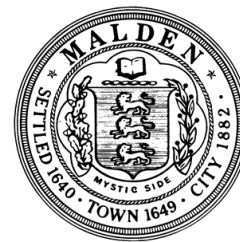




# City of Malden



Gregory Lucey, City Clerk  
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3/16/21

Mr. Bruce Friedman  
Via email delivery - [bruce@amyandbruce.com](mailto:bruce@amyandbruce.com)

**Re: Public Records Requests submitted 2/25/21 - 2021-0065 and 2021-0065**

Dear Mr. Friedman:

This correspondence is provided in response to your public records requests submitted on 2/25/21, referenced above. Specifically you requested the following:

**(1) 2021-0065:** *all emails sent to or sent from anyone in the FQDN cityofmalden.org which refer to 89 Summer Street A/K/A Malden District Court. These emails are to be provided in the electronic form which they are regularly maintained and must include all email metadata.*

and

**(2) 2021-0066:** *any emails between any members of the City Council where the recipients (to, carbon copy, and/or blind carbon copy) of the email would create a quorum from January 2020 through the date you answer this request. These emails are to be provided in the electronic form which they are regularly maintained and must include all email metadata.*

In terms of your first set of records requested (2021-0065), two thousand four hundred and forty-nine emails were compiled through a search of your request terms. In terms of your second set of records requested (2021-0066), one thousand nine hundred and fifty-five emails were compiled through a search of your request terms.

To complete the review and production of your requests, every page compiled must be reviewed in order to determine if it is responsive to your requests, given the broad nature of your search terms and the unlimited timeframe of 2021-0065, and the timeframe identified in 2021-0066.

In addition, Malden must review every record for possible redaction or segregation of records consisting of emails between Malden and its attorneys, which are attorney-client privileged and exempt from disclosure, as communications between attorney and client for purposes of legal

advice. Suffolk Constr. Co., Inc. v. Div. of Cap. Asset Mgmt., 449 Mass. 444 (2007). Counsel for Malden must review the records in order to determine whether the same are responsive to your request, or are otherwise exempt from disclosure based upon privacy concerns, or are otherwise exempt from disclosure based on attorney/client privilege, and in which case privilege log must be created, adding additional time to the estimate of hours.

In addition, each record compiled must also be reviewed in order to determine if other statutory or regulatory exemptions are applicable, for example, records which are "...specifically or by necessary implication exempted from disclosure by statute" pursuant to MGL c. 4 § 7, Twenty sixth clause (a), and/or "... materials or data relating to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of personal privacy", pursuant to MGL c. 4 § 7, Twenty sixth clause (c).

With regard to 2021-0065, review of a subset of samples resulting from your search terms, consisting of 20 emails was conducted, and took approximately 15 minutes to review and determine whether records were responsive. Of the subset of samples reviewed, approximately 7 emails were not responsive, 1 email contained privacy protected information requiring redaction, 5 emails were attorney/client communications, and 7 records in the subset were responsive.

The time required to review records for response, redaction, if necessary, and segregation and privilege log for privileged records, and extraction of non-responsive records is estimated to take 30.6125 hours. This estimation does not include the hour of time required of IT for initial search and compiling of documents containing your search terms.

The same review must be undertaken with regard to 2021-0066. In addition, your request requires additional review of the recipients to determine if recipients are a quorum of the City Council or any Committees comprised of the City Council as organized in 2020, and then as reorganized and comprised in 2021. In addition, review must be undertaken to remove emails which are non-responsive to your search request for only those records among a quorum. Review of a subset of samples consisting of 20 emails responsive to search terms set forth in your request was conducted, and took approximately 15 minutes to review and determine whether records were responsive.

Of the subset of samples reviewed, approximately 10 emails were responsive, and 10 were not. The time required to review records for response, redaction, if necessary, segregation and privilege log for privileged records, and extraction of non-responsive records is estimated to take 24.4375 hours. This estimation does not include the two hours of time required of IT for initial search and compiling of documents containing your search terms for which you will not be charged in accordance with 950 CMR 37.02(2)(m)(1)

Due to the fact that this request requires more than two hours of time to search, compile, segregate, redact, or remove records, the following fee estimate is provided. The estimated time required to process your requests, after the two hours required of IT to compile records containing the search terms you provided, is 55 hours. This fee to be charged is based on the hourly rate of the lowest paid employee with the requisite skill to search, compile, segregate, redact, or reproduce the record in accordance with MGL c. 66 §10(d)(iii), which rate is not to exceed \$25.

In regard to these two requests submitted by you on 2/25/21, the lowest paid employee with the requisite skills to complete the tasks described in order to produce the records is paid at an hourly rate in excess of \$25. Therefore, a fee of \$25/hour has been used to calculate the estimated fee of \$1,375.00, calculated at 55 hours x \$25/hour. In addition, please be advised that this is an estimate only, and additional time and fees may be calculated and required, and therefore the actual fee to produce the records may vary based on the actual time required to review the records sought. Review of the records for production will not occur until receipt of payment in the amount of \$1,375.00.

You are advised that you have the right to appeal this response to the Commonwealth of Massachusetts Supervisor of Public Records. Your petition for appeal of this response must be made within 90 calendar days of the date of this response, in writing, and must specify the nature of your objections to this response, and include a copy of your electronic request with all header information including the time, date, subject, sender and recipient email address, and a copy of the within written response, and the attachment(s) related hereto.

Your petition should be sent to the Supervisor at the following address:

Supervisor of Records  
Division of Public Records  
Office of the Secretary of the Commonwealth  
One Ashburton Place, Room 1719  
Boston, Massachusetts 02108

or: [pre@sec.state.ma.us](mailto:pre@sec.state.ma.us)

Electronic communication is strongly encouraged and is the preferred method of correspondence. If you have any further questions regarding this response, please do not hesitate to contact me.

Sincerely,

/s/Greg Lucey, City Clerk, RAO