



The Commonwealth of Massachusetts
William Francis Galvin, Secretary of the Commonwealth
Public Records Division

Rebecca S. Murray
Supervisor of Records

April 9, 2018
SPR18/433

Robert C. Ross, Esq.
Records Access Officer
Executive Office for Administration and Finance
State House, Room 373
Boston, MA 02133

Dear Attorney Ross:

I have received the petition of Colman Herman appealing the non-response of the Executive Office for Administration and Finance (Office) to a request for public records. G. L. c. 66, § 10A; see also 950 C.M.R. 32.08(1). Specifically, Mr. Herman requested "hard copies of any and all communications in the files of Michael Heffernan related to the hiring of Wellesley residents, Wellesley neighbors, and Wellesley friends, members of the Wellesley Country Club, colleagues, and former co-workers while he was commissioner of the department of revenue."

Subsequently, I learned that the Office provided Mr. Herman a response dated April 5, 2018. In the April 5th response, the Office indicated there were no records responsive to this request. Mr. Herman responded by inquiring whether certain possible sources had been searched for responsive records. You further confirmed in a follow-up response that the Office "undertook a reasonable inquiry of all possible sources of documents that would have been responsive to [Mr. Herman's] request. As stated, we identified no responsive documents."

Under the Public Records Law, the Office is not required to create a record in response to a public records request. See G. L. c. 66, § 6A(d). The duty to comply with requests for records extends to those records that exist and are in the possession, custody, or control of the custodian of records at the time of the request. See G. L. c. 66, § 10(a)(ii).

Sincerely,

A handwritten signature in black ink that reads "Rebecca Murray".

Rebecca S. Murray
Supervisor of Records

cc: Colman Herman