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FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18 20 Trinity Street, Suite 100 • Hartford, CT 06106
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John Matava,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2016-0099

Building Department, Town of Vernon; and
Town of Vernon,
Respondent(s)

November 7, 2016

Transmittal of Proposed Final Decision Dated November 7, 2016

In accordance with Section 4-179 of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision dated November 7, 2016, prepared by the hearing officer in the above-captioned matter.

This will notify you that the Commission will consider this matter for disposition at its meeting which will be held in the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, 1st floor, Hartford, Connecticut, at **2 p.m. on Wednesday, December 7, 2016**. At that time and place you will be allowed to offer oral argument concerning this proposed finding and order. Oral argument shall be limited to ten (10) minutes. For good cause shown, however, the Commission may increase the period of time for argument. A request for additional time must be made in writing and should be filed with the Commission *on or before November 22, 2016*. Such request **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, and (2) include a notation indicating such notice to all parties or their representatives.**

Although a brief or memorandum of law is not required, if you decide to submit such a document, an **original and fourteen (14) copies** must be filed *on or before November 22, 2016*. **PLEASE NOTE: Any correspondence, brief or memorandum directed to the Commissioners by any party or representative of any party MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, (2) include a notation indicating such notice to all parties or their representatives and (3) be limited to argument. NO NEW EVIDENCE MAY BE SUBMITTED.**

If you have already filed a brief or memorandum with the hearing officer and wish to have that document distributed to each member of the Commission, it is requested that **fifteen (15) copies** be filed *on or before November 22, 2016* and that **notice be given to all parties or if the parties are represented, to their representatives, that such previously filed document is being submitted to the Commissioners for review.**

By Order of the Freedom of
Information Commission

W. Paradis
Acting Clerk of the Commission

Notice to: John Matava
Attorney Martin B. Burke

2016-11-09/FIC# 2016-0099/Trans/wrbp/KKR//TAH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Second Report of Hearing Officer

John Matava,

Complainant

against

Docket #FIC 2016-0099

Building Department, Town of Vernon;
and Town of Vernon,

Respondents

November 7, 2016

The above-captioned matter was scheduled to be heard as a contested case on May 31, 2016, at 11:00 a.m., at which time the respondents appeared but the complainant failed to appear.

A report of hearing officer, dated May 31, 2016, recommending dismissal of the complaint for failure to prosecute, was considered by the Commission at its regular meeting on July 12, 2016, at which time the plaintiff appeared seeking to reopen the matter. The Commission voted to remand the matter to the hearing officer with direction to reopen the hearing.

A reopened hearing was held on September 27, 2016, at which time the complainant and the respondents appeared, and presented testimony, exhibits and argument on the complaint. A continued hearing thereafter was scheduled for November 8, 2016; however, after careful consideration of the record in this case, the hearing officer determined that such continued hearing was unnecessary (see the findings and conclusions, below).

1. The respondents are public agencies, within the meaning of §1-200(1), G.S.
2. It is found that, by letter to the respondents dated December 29, 2015, the complainant requested “to inspect or receive copies” from the respondents of “all building and zoning violations that [were] given out between...November 1, 2014 and December 29, 2015, along with the corrections that [were] made from the violation and the penalties that [were assessed] for each violation.”
3. It is found that, by letter dated January 5, 2016, the respondents acknowledged the request, described in paragraph 2, above, and informed the complainant that “[f]or your information, you are welcome to come to view this file during business hours. If you require any copies, the cost is \$1.00 per page.” (Emphasis added).

4. By letter dated February 2, 2016, the complainant appealed to this Commission, alleging that “as of [this] date, no one in the Town...has contacted me regarding my request, nor has any information been released.”

5. It is found, however that the respondent town had, in fact, contacted the complainant on January 5, 2016, and offered the complainant an opportunity to inspect the records (see paragraph 3, above).

6. Section 1-200(5), G.S., provides:

“[p]ublic records or files” means any recorded data or information relating to the conduct of the public’s business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

7. Section 1-210(a), G.S., provides in relevant part that:

[e]xcept as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to (1) inspect such records promptly during regular office or business hours, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212.

8. Section 1-206(b)(1), G.S., provides, in relevant part, that:

[a]ny person denied the right to inspect or copy records under section 1-210 or wrongfully denied the right to attend any meeting of a public agency or denied any other right conferred by the Freedom of Information Act may appeal therefrom to the Freedom of Information Commission, by filing a notice of appeal with said commission. A notice of appeal shall be filed not later than thirty days after such denial.... (Emphasis added).

9. It is found that the records, described in paragraph 2, above, are public records, within the meaning of §§1-210(a) and 1-200(5), G.S.

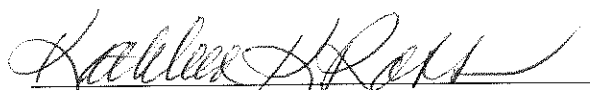
10. It is found that the respondents, by their January 5, 2016 letter, did not deny the request, described in paragraph 2, above. The request indicated that the complainant was seeking to inspect or to receive copies of the records at issue, and the respondents' January 5, 2016 letter invited the complainant to inspect the files.

11. It is found that the complainant did not attempt to inspect the records prior to the filing of the complaint in this matter.

12. Based on the foregoing, it is concluded that the respondents did not violate the FOI Act, as alleged in the complaint.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. The complaint is hereby dismissed.



Kathleen K. Ross
as Hearing Officer