

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by)
Hartford Courant, Complainant) Report of Hearing Officer
)
against) Docket #FIC77-159
)
State of Connecticut and State)
Tax Department, Respondents) September 14, 1977

The above captioned matter was heard as a contested case on September 6, 1977, at which time the complainant and the respondents appeared, stipulated to certain facts and presented argument on the complaint.

After consideration of the entire record, the following facts are found:

1. The respondents are public agencies under §1-18a(a), G.S.

2. By letter dated August 18, 1977, the complainant requested from the commissioner of the respondent department a copy of the list of delinquent attorneys - that is, those who have failed to pay their \$150 state occupational tax.

3. The respondent department maintains as a record the document described in paragraph 2, above.

4. By letter dated August 19, 1977, the respondent department denied the aforesaid request.

5. By letter of complaint filed with this Commission on August 22, 1977, the complainant appealed from the denial of its request as a violation of the Freedom of Information Act, as codified in Chapter 3, G.S.

6. While the respondent department admits that the requested list is a public record under §1-18a(d), G.S., it contends that the record is exempt from disclosure under §§1-19(b)(10) and 12-15, G.S.

7. With certain exceptions §51-81b, G.S., requires attorneys admitted to practice in this State to pay an occupational tax. Pursuant to this statute, the respondent department requires the subject attorneys to file an occupational tax return.

8. §12-15, G.S., provides that all "statements, reports or returns required to be filed with the [tax] commissioner" shall be confidential and not open to public inspection.

9. The respondent department contends that since the information contained on the requested list is derived from filed tax returns, it is confidential under §12-15, G.S., and exempt from disclosure as a record, tax return, report or statement under §1-19(b)(10), G.S.

10. While the information contained on the requested list may be derived from filed tax returns in some cases, in the case of failure to file such return or other statement or report, the information concerning delinquency must be derived from other sources such as lists of attorneys maintained by the clerks of the Superior Court. There is no claim that such lists are confidential or exempt from disclosure.

11. It is found that the requested list is functionally different from the categories of documents exempt from disclosure under §§12-15 and 1-19(b)(10), G.S. It is not a record required to be filed with the respondent department. It is a record prepared and used by the respondent department to report delinquencies to the Chief Court Administrator and to institute appropriate collection procedures pursuant to statute.

12. It is therefore concluded that the requested list is not the equivalent of the documents exempt under §§12-15 and 1-19(b)(10) G.S., and is a public record subject to disclosure under §§1-15 and 1-19(a), G.S.

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

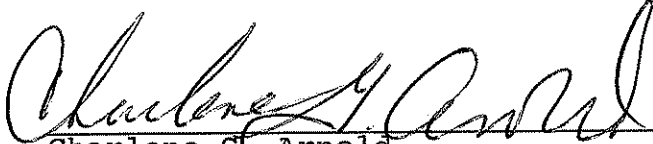
1. The respondent department shall forthwith provide the complainant with a copy of the requested list, as described in paragraph 2, above, in accordance with §1-15, G.S.



Commissioner Judith A. Lahey

as Hearing Officer

Approved by order of the Freedom of Information Commission on
September 28, 1977.



Charlene G. Arnold
Clerk of the Commission