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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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Thomas White,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2011-697

City Clerk, City of Bridgeport; and  
City of Bridgeport,  
Respondent(s)

July 2, 2012

### Transmittal of Proposed Final Decision

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 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, July 25, 2012**. 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 July 13, 2012**. 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, the Commission requests that an **original and fourteen (14) copies** be filed **ON OR BEFORE July 13, 2012**. **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 **fourteen (14) copies** be filed **ON OR BEFORE July 13, 2012**, 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: Thomas White  
Gregory M. Conte, Esq.

7/2/12/FIC# 2011-697/Trans/wrbp/CAL/TAH

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Thomas White,

Complainant

against

Docket #FIC 2011-697

City Clerk, City of Bridgeport;  
and City of Bridgeport,

Respondents

June 21, 2012

The above-captioned matter was consolidated for hearing with Docket #FIC 2011-677, also captioned Thomas White v. City Clerk, City of Bridgeport; and City of Bridgeport. It was heard as a contested case on May 10, 2012, at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents are public agencies, within the meaning of §1-200(1), G.S.
2. It is found that, by letter dated December 16, 2011 to the respondent City Clerk, City of Bridgeport (the "respondent City Clerk"), the complainant requested "copies of the documents associated with the agenda items for the City Council meeting of December 19, 2011, as reflected in the meeting notice e-mailed December 15, 2011" (the "requested records"). The complainant further suggested that the respondent City Clerk provide the requested records to him "at the Council meeting on December 19<sup>th</sup>", when the same records would be provided to the twenty City Council members in their package for the meeting.
3. By letter of complaint dated and filed on December 22, 2011, the complainant appealed to this Commission, alleging that the respondent City Clerk violated the Freedom of Information Act ("FOIA") by failing to provide him with copies of the requested records.

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

"Public 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.

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

Except 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 . . . (3) receive a copy of such records in accordance with section 1-212.

6. Section 1-212(a), G.S., provides in relevant part that “[a]ny person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

7. It is found that the requested records are public records and must be disclosed in accordance with §§1-200(5), 1-210(a) and 1-212(a), G.S., unless they are exempt from disclosure.

8. It is found that the City of Bridgeport has a policy that requires documents for Council meetings to be sent from the relevant city departments (typically five or six departments) to the respondent City Clerk’s office by 4:30 p.m. on the Wednesday prior to a given meeting. The Wednesday prior to the December 19, 2011 meeting was December 12, 2011. Accordingly, it is also found that the respondent City Clerk maintained most, if not all, of the requested records by the time of the request on December 16, 2011. The respondent City Clerk certainly maintained all the requested records by the time of the meeting on December 19, 2011.

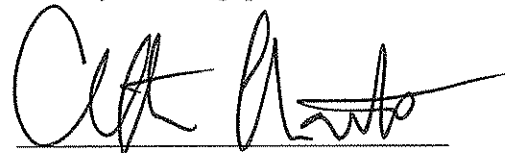
9. It is found that, as of the May 10, 2012 hearing in this matter, the respondent City Clerk has failed to provide copies of any requested records to the complainant. There was no evidence at the hearing that any other official of the City of Bridgeport participated in this failure to provide copies of the requested records.

10. All persons, including the complainant, have a right to receive copies of non-exempt public records upon written request. It is concluded that the respondent City Clerk’s failure to provide copies of the requested records violated §§1-210(a) and 1-212(a), G.S.

11. The Commission notes that attorney Gregory M. Conte made considerable efforts to mediate a resolution of the FOIA disputes that have been ongoing between the complainant and the respondent. See Docket #FIC 2009-644, Thomas J. White, Legislative Services Director, City of Bridgeport v. City Clerk, City of Bridgeport; and Docket #FIC 2010-290, Thomas J. White, Legislative Services Director, City of Bridgeport v. City Clerk, City of Bridgeport. Indeed, in the first week of May 2012, based upon an agreement of the parties, the complainant timely received for the first time an electronic copy of the package for the May 7, 2012 meeting of the City Council. However, at the same meeting, the City Council adopted a resolution which included defunding the complainant's position as Legislative Services Director as of July 1, 2012.

The following orders by the Commission are hereby recommended on the basis of the record concerning the above-captioned complaint.

1. Henceforth, the respondent City Clerk shall strictly comply with all of the requirements of §§1-210(a) and 1-212(a), G.S.
2. The complaint is dismissed as to the respondent City of Bridgeport.



Clifton A. Leonhardt  
as Hearing Officer