

Since 1975



# FREEDOM OF INFORMATION



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

Notice of Meeting

Docket #FIC 2012-422

Key Human Services, Inc.,  
Respondent(s)

February 28, 2013

### 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 Thursday, March 28, 2013**. 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 March 15, 2013**. 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 March 15, 2013**. 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 March 15, 2013**, 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: David Jacobs  
Edward B. Spinella, Esq.  
Emily V. Melendez, Esq.

2013-02-28/FIC# 2012-422/Trans/wrbp/CAL/TCB

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

David Jacobs,

Complainant

against

Docket #FIC 2012-422

Key Human Services, Inc,

Respondent

February 26, 2013

The above-captioned matter was originally docketed with the caption: David Jacobs v. Key Human Services, Inc.; Commissioner, State of Connecticut, Department of Developmental Services; and State of Connecticut, Department of Developmental Services. By motion dated January 7, 2013, the Commissioner and the Department respondents moved that the matter be dismissed as to them on the grounds that they were not named as respondents in the complaint and that the records request was not made to a public agency as required by §1-218, G.S. On January 15, 2013, the hearing officer granted the motion to dismiss as to the Commissioner and the Department respondents. The caption of the case above has been accordingly revised.

The matter was heard as a contested case on February 19, 2012, at which time the complainant and the respondent appeared and presented testimony on the above captioned complaint. The sworn testimony was that the contract between the respondent Key Human Services, Inc. and the Department of Developmental Services for the relevant two year period included a payment of \$24,000,000 (twenty four million dollars) to the respondent. There was also a representation by respondent's counsel, in response to direct inquiry, that the contract at issue included the Freedom of Information Act language required by §1-218, G.S.

The hearing officer reviewed the development of the common law concerning "the functional equivalent of a public agency", including especially the limitations established in Domestic Violence Services of Greater New Haven, Inc. v. Freedom of Information Commission et al, 47 Conn. App. 466 (1998). The hearing officer also reviewed the subsequent response by the General Assembly in P.A. 01-169. Based upon this discussion, the complainant stated that he wished to withdraw this case.

The hearing officer suggested to the complainant that, if he wished to file a new case pursuant to §1-218, G.S., that he should make his records request to the Department of Developmental Services; that his complaint should name the Department of

Developmental Services as the party that failed to provide him with public records; and that he should ask the Freedom of Information Commission for an expedited hearing.

The following order by the Commission is hereby recommended on the basis of the record:

1. Based on the withdrawal of the complaint, the case is hereby dismissed.

A handwritten signature in black ink, appearing to read 'Clifton A. Leonhardt', written over a horizontal line.

Clifton A. Leonhardt  
as Hearing Officer

FIC2012-422/HOR/CAL/02262013