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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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Diane Reed,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2012-618

Mayor, Town of Plymouth; Director, Human Resources, Town of Plymouth; and Town of Plymouth,

Respondent(s)

May 15, 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 Wednesday, June 12, 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 May 31, 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 May 31, 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 May 31, 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: Diane Reed
Salvatore V. Vitano, Esq.

5/15/13/FIC# 2012-618/Trans/wrbp/CAL/GFD

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Diane Reed,

Complainant

against

Docket # FIC 2012-618

Mayor, Town of Plymouth; Director,
Human Resources, Town of Plymouth;
and Town of Plymouth,

Respondents

April 30, 2013

The above captioned matter was heard as a contested case on April 19, 2013, 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)(A), G.S.
2. It is found that by letter dated September 5, 2012, the complainant made a request to the respondent Director, for the job description of the Administrative Assistant to the Mayor. By letters dated October 17, 2012, the complainant renewed her request, this time directing identical requests to both the respondent Mayor and the respondent Director (the "requested records").
3. It is found that, by letter dated October 22, 2012, the respondent Mayor stated that following an earlier request "a member of my office could not locate such document." The letter continued: "Upon further investigation, in an archival research, I came across an outdated job description, which I have enclosed." The respondent Mayor's letter had as enclosures two job descriptions, one for an "Administrative Assistant to the Mayor", the other for an "Administrative Manager to the Mayor", both of which included handwritten editing of typed copy.
4. It is found that, by letter dated October 24, 2012 and filed with the Commission on October 31, 2012, the complainant appealed to the Commission, alleging that the failure of the respondents to provide the requested records violated the Freedom of Information Act ("FOIA").
5. 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.

6. Sections 1-210(a) and 1-212(a), G.S., state, respectively, in relevant parts:

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, (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.

...

Any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.

7. It is concluded that the requested records are “public records” within the meaning of §§1-200(5), 1-210(a) and 1-212(a), G.S.

8. Based upon the sworn testimony of the respondent Mayor, it is found that the respondents have performed a diligent search involving relevant personnel and that the respondents do not maintain any records within the scope of the complainant’s request other than those provided to her with the respondent Mayor’s letter of October 22, 2012.

9. It is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., by failing to provide copies of requested records which they maintained.

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.



Clifton A. Leonhardt
as Hearing Officer