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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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Penn'lope Davis,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2013-358

Executive Director, Housing Authority, Town of
West Hartford; and Housing Authority, Town of
West Hartford,

Respondent(s)

February 4, 2014

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, February 26, 2014**. 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 February 11, 2014**. 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 February 11, 2014**. **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 February 11, 2014**, 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: Penn'lope Davis
Barbara S. McGrath, Esq.

2/4/14/FIC# 2013-358/Trans/wrbp/LFS//TAH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Penn'lope Davis,

Complainant

against

Docket #FIC 2013-358

Executive Director, Housing Authority,
Town of West Hartford; and Housing
Authority, Town of West Hartford,

Respondents

February 4, 2014

The above-captioned matter was heard as a contested case on January 7, 2013, at which time the complainant and the respondents appeared, stipulated to certain facts 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 on June 11, 2013, the complainant requested copies of:
 - a. a certain "approved request for tenancy on or around December 2012;"
 - b. a certain "withdrawn intent to move;" and
 - c. any records pertaining to a certain Housing Assistance Payment for January 2013.
3. By letter filed June 12, 2013, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide her with the records she requested.
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, ... 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:

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

6. Section 1-212(a), G.S., provides in relevant part: “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 records requested by the complainant are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

8. It is found that on September 26, 2013, the respondents provided copies of records that are responsive to the complainant’s request described in paragraph 2.a and 2.b, above.

9. The respondents explained that the more than three month delay in providing records to the complainant was due to concerns about confidentiality. It is found, however, that such concerns could have easily been resolved in a more timely manner.

10. It is found, therefore, that the respondents failed to promptly provide the records to the complaint.

11. Accordingly, it is concluded that the respondents violated §§1-210(a) and 1-212(a), G.S., by failing to provide copies of the records described in paragraph 2.a and 2.b, above, in a prompt manner.

12. With respect to the complainant’s request described in paragraph 2.c, above, it is found that the respondents submitted evidence that they do not maintain any records responsive to such request. The complainant, however, insisted that the respondents do maintain electronic records pertaining to the Housing Assistance Payment for January 2013 paid to the complainant on behalf of a certain tenant.

13. It is found that housing vouchers in the Section 8 housing at issue in this matter are federally funded and administered by the Connecticut Department of Social Services and a third party administrator, J.D’Amelia & Associates, LLC. (“JDA”). It is found that the respondents contract with JDA to operate the voucher program. It is found that JDA directs the respondents when and whether to release payment to the landlord, and the respondents issue a check to the landlord upon direction by JDA.

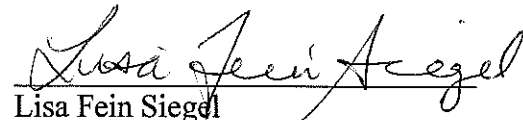
14. It is found that the respondents provided no payment to the complainant in January 2013, and therefore have no record of such payment. It is found that the respondents subsequently provided payment in February 2013 or later for the rental period of January 2013, but the only record of such payment is the electronic issuance of the check, which the complainant does not dispute that she received.

15. It is found that the respondents maintain no other records responsive to the complainant's request for copies of records pertaining to a certain HAP for January 2013.

16. It is concluded, therefore, that the respondents did not violate the FOI Act by providing no records in response to the complainant's request described in paragraph 2.c, above.

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

1. Henceforth, the respondents shall comply with the promptness provisions of §§1-210(a) and 1-212(a), G.S.


Lisa Fein Siegel
as Hearing Officer