



# FREEDOM OF INFORMATION



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

Notice of Meeting

Docket #FIC 2013-690

Director, Department of Neighborhood  
Revitalization/Anti-Blight, City of Bridgeport; and  
Department of Neighborhood Revitalization/Anti-  
Blight, City of Bridgeport,  
Respondent(s)

August 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, August 27, 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 August 15, 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 August 15, 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 August 15, 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

Wendy Paradis  
Acting Clerk of the Commission

Notice to: Elizabeth Englebretson  
Gregory Conte, Esq.

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Elizabeth Englebretson,

Complainant

against

Docket #FIC 2013-690

Director, Department of Neighborhood  
Revitalization/Anti-Blight, City of  
Bridgeport; and Department of  
Neighborhood Revitalization/Anti-Blight,  
City of Bridgeport,

Respondents

August 4, 2014

The above-captioned matter was heard as a contested case on June 3, 2014, 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 by letter dated October 7, 2013, the complainant requested that the respondents provide “all of the public records pertaining to the South End [Neighborhood Revitalization Zone] (hereinafter the “South End NRZ”) including but not limited to the date, notes and hearing minutes from the Commission vote on the South End NRZ by laws.” The complainant’s letter included the following questions:
  - a. Were the bylaws made an ordinance and when?
  - b. Have these bylaws been amended and when?
  - c. Who officially represents the city on the South End NRZ board?”

3. By e-mail sent and received on November 4, 2013, the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to comply with her request.

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, (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.

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 described in paragraph 2, above, to the extent they exist, are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

8. It is found, however, that the FOI Act does not require a public agency to answer questions and therefore the questions described in paragraph 2a, 2b and 2c, above, will not be addressed herein.

9. With respect to the complainant's request for all records maintained by the respondent pertaining to the South End NRZ, it is found that the respondents compiled a bankers box full of records responsive to the request. It is found that such records were offered to the complainant on January 7, 2014.<sup>1</sup>

10. It is found that while the respondent director otherwise conducted a diligent search for responsive records, she inadvertently neglected to search her e-mails (in part because e-mails were not specifically requested) for responsive records which would have produced e-mail correspondence pertaining to the South End NRZ.

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<sup>1</sup> It is also found that the complainant, as of the date of the hearing in this matter, had not inspected or paid to have copies of the records compiled in response to her request.

11. It is found that, in that regard, the respondents inadvertently failed to fully comply with the complainant's records request in violation of §1-210(a), G.S.

12. At the hearing on this matter, the complainant alleged that the respondents did not make any responsive records available for her inspection until January 7, 2014, almost three months after her request and that such a delay was in violation of the FOI Act's requirement that a public agency comply *promptly* with a records request.

13. The Commission has previously opined that the word "promptly" in §1-210, G.S., means "quickly and without undue delay, taking into account all of the factors presented by a particular request . . . [including] the volume of statements requested; the amount of personnel time necessary to comply with the request; the time by which the requester needs the information contained in the statements; the time constraints under which the agency must complete its other work; the importance of the records to the requester, if ascertainable; and the importance to the public of completing the other agency business without loss of the personnel time involved in complying with the request." See FOI Commission Advisory Opinion #51 (Jan. 11, 1982). The Commission also recommended in Advisory Opinion #51 that, if immediate compliance is not possible, the agency should explain the circumstances to the requester.

14. The respondent director appeared and testified at the hearing on this matter, but was not able to provide a reliable timetable on when certain steps were taken in her effort to comply with the complainant's request. She did testify, and it is found, that the City requires that all records requests be submitted to the City Attorney's office for review and for that office to provide instructions on how to respond to the request. She testified, and it is found, that in this case, she immediately submitted the request to the City Attorneys' Office on October 7, 2013, and waited for instructions from that office on how to comply with the request; that upon receiving those instructions, she immediately compiled the responsive records and submitted them to the City Attorney's office so that it could conduct its review for any application exemptions to disclosure; and that thereafter the City Attorney's Office informed the complainant that the records were compiled and could be copied if she paid the \$1000.00 copying fee on January 7, 2014. It is also found that the parties were in contact with each other regarding the status of the respondent's compliance with the request throughout the 3 months.


15. It is found that while it took approximately three months for the respondents to provide the records responsive to the complainant's request, it was not the result of any undue delay on the part of the respondent director.

16. Consequently, it is found that the respondents did not violate the promptness provisions of the FOI Act as alleged by the complainant.

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

1. Forthwith the respondents shall conduct a search of all e-mail accounts in which records responsive to the complainant's request, as described in paragraph 2, of the findings, above, would reasonably be maintained and provide a copy of those records to the complainant via e-mail, or in the alternative, via regular mail, free of charge.

2. Henceforth, the respondents shall strictly comply with the disclosure provisions of the FOI Act.

  
Attorney Tracie C. Brown  
as Hearing Officer