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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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David Godbout,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2014-258

State of Connecticut, Department of Motor Vehicles,
Respondent(s)

March 27, 2015

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, April 8, 2015**. 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 April 3, 2015**. 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 April 3, 2015**. **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 April 3, 2015**, 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 Godbout
Attorney Michelle C.H. Givens

2015-03-27/FIC# 2014-258/Trans/wrbp/KKR/CAL

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

David Godbout,

Complainant

against

Docket #FIC 2014-258

State of Connecticut, Department of
Motor Vehicles,

Respondents

March 27, 2015

The above-captioned matter was heard as a contested case on March 16, 2015, 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 and emailed to the Commissioner of the respondent department ("department") on March 8, 2014, the complainant referenced an article that appeared in the Hartford Courant regarding low number license plates, and requested inspection of "the records you maintain for low lic. [sic] plate's [sic], records...mentioned in the article." The complainant further requested to inspect "letters or emails or other records from public officials trying to influence the issuance of a plate to a particular person."¹

3. It is found that, by letter dated April 11, 2014, the respondents provided copies of records responsive to the request, described in paragraph 2, above, but with "personal information" such as social security numbers, birth dates, personal email addresses and phone numbers redacted, citing §14-10, G.S. It is found that such records included applications for "special order plate[s]" on department form M-22, letters and emails from individuals to the Governor and to the Commissioner of the department requesting low number license plates as well as emails related to those requests, and handwritten notes of department employees about such requests.

¹The complainant requested another category of records as well; however, such records are not the subject of the instant appeal.

4. It is found that, by email also dated April 11, 2014, the complainant informed the respondents that he believed that the redaction of phone numbers that “are widely available elsewhere,” was improper.

5. It is found that, thereafter, the respondents reconsidered their response, conducted a review of the redacted phone numbers and determined that certain numbers “were found to be public information.” It is found that, on April 25, 2014, the respondents provided the complainant with another copy of the records responsive to the request, described in paragraph 2, above, with the “public” phone numbers no longer redacted.

6. It is found that, by email dated April 26, 2014, the complainant informed the respondents that he believed the copies they provided to him on April 25th still contained redactions that were improper.

7. By letter of complaint dated, April 30, 2014, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by over-redacting the phone numbers contained in the records responsive to his request March 8th request.

8. Section 1-200(5), G.S., provides in relevant part that “public records or files” means any recorded date 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.”

9. 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.

10. 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.”

11. It is found that the records described in paragraph 2, above, are public records within the meaning of §§1-200(5), 1-210(a) and 1-212(a), G.S.

12. Section 14-10(c)(2), G.S., provides in relevant part, that:

[b]efore disclosing personal information pertaining to an applicant or registrant from such motor vehicle records or allowing the inspection of any such record containing such personal information in the course of any transaction conducted at [the]...main office, the commissioner shall ascertain whether such disclosure is authorized under subsection (f) of this section, and require the person or entity making the request to (A) complete an application that shall be on a form prescribed by the commissioner, and (B) provide personal identification satisfactory to the commissioner.

13. At the hearing in this matter, the complainant contended that some of the records responsive to his request are not “motor vehicle records” within the meaning of §14-10(a)(2), G.S., and that therefore, the respondents were not entitled to redact the phone numbers from those records. The complainant conceded, however, that if such records are found to be “motor vehicle records,” the respondents were entitled to redact the phone numbers. In addition, the complainant did not dispute that phone numbers are “personal information” as that term is defined in §14-10(a), G.S.²

14. “Motor vehicle record” as that term is used in §14-10(c), G.S., is defined in §14-10(a)(2), G.S., as “any record that pertains to an operator’s license, instruction permit, identity card, registration, certificate of title or any other document issued by the Department of Motor Vehicles.” (Emphasis added).

15. The complainant argued, at the hearing in this matter, that a record is a “motor vehicle record” only if it is issued by the respondent department. Thus, according to the complainant, a letter maintained by the department addressed to Governor Malloy from an individual seeking a low number license plate, for example, is not a “motor vehicle record” under §14-10, G.S., because it was not “issued by” the respondent department.

16. It is found that the complainant’s argument overlooks the language in the statute that clearly and plainly states that “any record” that “pertains to” any document issued by the department, including “registration,” is a “motor vehicle record.”

17. It is found that the records described in paragraph 3, above, including the letter described in paragraph 15, above, “pertain” to “registration,” and therefore are “motor vehicle records.”

²“Personal information” as that term is used in §14-10(c), G.S., is defined in §14-10(a)(3), G.S., as “information that identifies an individual and includes an individual’s photograph or computerized image, Social Security number, operator’s license number, name, address other than zip code, telephone number, electronic mail address, or medical or disability information, but does not include information on motor vehicle accidents or violations, or information relative to the status of an operator’s license, registration or insurance coverage.”

18. In his post-hearing brief, the complainant argued that because the request, described in paragraph 2, above, was limited to records relating to requests for low number license plates *that were denied*, records responsive to that request are not “motor vehicle records” because such records do not pertain to a registration *issued* by the department.

19. However, it is concluded that the complainant’s narrow reading of the definition runs contrary to the “plain purpose of the restrictions in 14-10 on dissemination of information relating to individual motorists” which is to “protect the privacy of those motorists.” Kozlowski v. Freedom of Information Commission, 1997 Conn. Super. LEXIS 2000, docket number CV960556965 (judicial district of Hartford-New Britain at New Britain, July 29, 1997), Maloney, J.

20. The complainant also argued, at the hearing in this matter, that because the respondents provided him with some phone numbers, they waived their right to redact other phone numbers. However, this Commission has previously concluded that, although §14-10(f), G.S., permits the Commissioner to disclose personal information contained in motor vehicle records in certain limited circumstances, the Commissioner is not required to do so. Bill O’Brien, City Assessor, City of Bridgeport v. Commissioner, Department of Motor Vehicles, Docket 2007-135 (February 13, 2007).

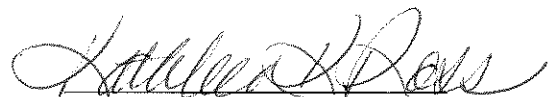
21. Accordingly, it is concluded that, because the respondents were not required to provide the complainant with any phone numbers, they did not waive any right to withhold other phone numbers.

22. Finally, although the complainant initially contested the redaction of certain phone numbers on the ground that they “are widely available elsewhere,” he did not raise this argument at the hearing in this matter or in his post-hearing brief. Therefore, this argument is deemed abandoned and shall not be considered herein.

23. Based upon the foregoing, it is concluded that the respondents did not violate the FOI Act by redacting the phone numbers contained in the motor vehicle records at issue.

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.



Kathleen K. Ross
As Hearing Officer