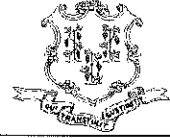


Since 1975



FREEDOM OF INFORMATION



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

Notice of Meeting

Docket #FIC 2015-166

Town Clerk, Town of East Hartford; and Town of East Hartford,

Respondent(s)

October 7, 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, October 28, 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 October 16, 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 October 16, 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 **fifteen (15) copies** be filed **ON OR BEFORE October 16, 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: James Quattro
Ryan A. O'Donnel, Esq.

2015-10-07/FIC# 2015-166/Trans/wrbp/VRP//KKR

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

James Quattro,

Complainant

against

Docket #FIC 2015-166

Town Clerk, Town of East Hartford; and
Town of East Hartford,

Respondents

July 31, 2015

The above-captioned matter was heard as a contested case on July 21, 2015, 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. By letter of complaint filed March 4, 2015, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by denying him access to inspect the index of death records and a specific identified death record.
3. It is found that the complainant went to the respondent's office on February 27, 2015 to inspect the index of death records and the death records themselves.
4. It is found that the respondent Town Clerk brought the complainant to the area where the death records are kept, and permitted the complainant to inspect the index of death records, but stopped the complainant when he began thumbing through the volume of death records without having identified a particular death record to inspect.
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. 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. . . .

7. It is found that the respondents maintain the documents described in paragraph 3, above, and it is therefore concluded that such records are “public records” within the meaning of §§1-200(5) and 1-210(a), G.S., and that access to such records must be granted in accordance with §1-210(a), G.S., unless they are exempt from disclosure.

8. With regard to the actual death and marriage records, §7-51a, G.S., entitled “Copies of vital records. Access to vital records by members of genealogical societies. Marriage and civil union licenses. Death certificates. Issuance of certified copies of electronically filed certificates,” provides in relevant part as follows:

(a) Any person eighteen years of age or older may purchase certified copies of marriage and death records, and certified copies of records of births or fetal deaths which are at least one hundred years old, in the custody of any registrar of vital statistics. The department may issue uncertified copies of death certificates for deaths occurring less than one hundred years ago, and uncertified copies of birth, marriage, death and fetal death certificates for births, marriages, deaths and fetal deaths that occurred at least one hundred years ago, to researchers approved by the department pursuant to section 19a-25, and to state and federal agencies approved by the department. During all normal business hours, members of genealogical societies incorporated or authorized by the Secretary of the State to do business or conduct affairs in this state shall (1) have full access to all vital records in the custody of any registrar of vital statistics, including certificates, ledgers, record books, card files, indexes and database printouts, except for those records containing Social Security numbers protected pursuant to 42 USC 405 (c)(2)(C), and confidential files on adoptions, gender change, gestational agreements and paternity, (2) be permitted to make notes from such records, (3) be permitted to purchase certified copies of

such records, and (4) be permitted to incorporate statistics derived from such records in the publications of such genealogical societies. For all vital records containing Social Security numbers that are protected from disclosure pursuant to federal law, the Social Security numbers contained on such records shall be redacted from any certified copy of such records issued to a genealogist by a registrar of vital statistics. [Emphasis supplied.]

....

(c) For deaths occurring after December 31, 2001, the Social Security number, occupation, business or industry, race, Hispanic origin if applicable, and educational level of the deceased person, if known, shall be recorded in the "administrative purposes" section of the death certificate. All parties specified on the certificate, including the informant, licensed funeral director, licensed embalmer, conservator, surviving spouse, physician and town clerk, shall have access to the Social Security numbers of the decedent as well as other information contained in the "administrative purposes" section specified on the original death certificate for the purpose of processing the certificate. For any death occurring after July 1, 1997, only the surviving spouse, next of kin or state and federal agencies authorized by federal law may receive a certified copy of a death certificate with the decedent's Social Security number or the complete "administrative purposes" section included on the certificate. Any researcher requesting a death certificate for a death occurring after July 1, 1997, may obtain the information included in the "administrative purposes" section of such certificate, except that the decedent's Social Security number shall be redacted. [Emphasis supplied.]

9. In addition, §7-51, G.S., entitled "Access to and examination and issuance of certified copies of birth and fetal death records or certificates restricted. Access to and disclosure of confidential information restricted," provides in relevant part as follows:

- (a) The department and registrars of vital statistics shall restrict access to and issuance of a certified copy of birth and fetal death records and certificates less than one hundred years old, to the following eligible parties: (1) The person whose birth is recorded, if over eighteen years of age; (2) such person's children, grandchildren, spouse, parent, guardian or grandparent; (3) the chief executive officer of the

municipality where the birth or fetal death occurred, or the chief executive officer's authorized agent; (4) the local director of health for the town or city where the birth or fetal death occurred or where the mother was a resident at the time of the birth or fetal death, or the director's authorized agent; (5) attorneys-at-law representing such person or such person's parent, guardian, child or surviving spouse; (6) a conservator of the person appointed for such person; (7) members of genealogical societies incorporated or authorized by the Secretary of the State to do business or conduct affairs in this state; (8) agents of a state or federal agency as approved by the department; and (9) researchers approved by the department pursuant to section 19a-25. Except as provided in section 19a-42a, access to confidential files on paternity, adoption, gender change or gestational agreements, or information contained within such files, shall not be released to any party, including the eligible parties listed in this subsection, except upon an order of a court of competent jurisdiction.

- (b) No person other than the eligible parties listed in subsection (a) of this section shall be entitled to examine or receive a copy of any birth or fetal death record or certificate, access the information contained therein, or disclose any matter contained therein, except upon written order of a court of competent jurisdiction (Emphasis supplied).

10. It is therefore concluded that some death records (e.g., fetal death records less than one hundred years old) are by statute not open to public inspection; and further, that certain portions of otherwise public death records (e.g., social security numbers and information recorded for “administrative purposes”) are also not open to public inspection.

11. It is therefore found that respondents may not permit members of the public to thumb through volumes of death records, as some of those records, and portions of other records, are exempt from disclosure. Further, in order to permit inspection of the public portion of death records containing social security numbers or other exempt information, it is necessary for the respondents to first make a copy in order to redact the exempt information.

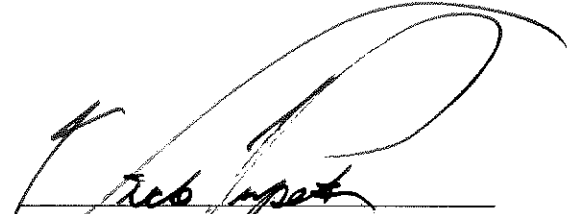
12. It is found that the respondent Town Clerk permitted the complainant to inspect the index of death records, which index itself does not contain exempt information. It is further found that the respondent Town Clerk only stopped the complainant when the complainant began thumbing through the volume of death records without identifying a particular record he wished to inspect. The complainant’s testimony

to the contrary is specifically found not to be credible.

13. Based on the foregoing, it is concluded that the respondents did not violate the provisions of §1-210(a), G.S., in this matter.

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

1. The complaint is dismissed.



Victor R. Perpetua
as Hearing Officer