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FREEDOM OF INFORMATION



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Elisabeth Seieroe Maurer,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2015-176

Director of Human Resources, Town of Stratford; and
Town of Stratford,
Respondent(s)

October 26, 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, November 18, 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 November 6, 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 November 6, 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 November 6, 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: Elisabeth Seieroe Maurer
Michael S. Casey, Esq.

10-26-2015/FIC# 2015-176/Trans/wrbp/TCB//KKR

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Elisabeth Seieroe Maurer,

Complainant

against

Docket #FIC 2015-176

Director of Human Resources,
Town of Stratford; and Town of
Stratford,

Respondents

October 22, 2015

The above-captioned matter was heard as a contested case on September 14, 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. It is found that by letter dated October 24, 2014, the complainant made a request to the respondents for certain records related to the respondent town's employment search for a Deputy Police Chief in 2009 and a Police Chief in 2011-2012.
3. It is found that, on February 3, 2015, the respondents provided the complainant with records responsive to her request.
4. It is found that by letter dated February 11, 2015, the complainant informed the respondents that she did not believe that they had provided her with all of the responsive records and requested that they comply fully with her October 24, 2014 records request.
5. By letter dated March 4, 2015 and filed on March 9, 2015, the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to fully comply with her October 24, 2014 records request, which request was renewed on February 11, 2015.

6. 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.

7. 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.

8. 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.”

9. It is found that the requested records, to the extent they exist, are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

10. At the hearing on this matter, the complainant withdrew her complaint regarding the respondents’ compliance with her request for records related to the employment search for a Police Chief in 2011-2012.

11. It is found, therefore, that the only records at issue in this appeal are those related to the respondent town’s employment search for a Deputy Police Chief in 2009 and that will be the only issue addressed herein.

12. With respect to the records related to the respondent town’s employment search for a Deputy Police Chief in 2009, it is found that the complainant requested the following:

- a. a copy of the 2009 job posting for the Deputy Police Chief position;

- b. a copy of any and all applications, resumes, questionnaires, grading rubrics, interview questions, essay examinations, background checks, and scoring criteria used for the search and selection of the Deputy Police Chief in 2009; and
- c. a copy of any and all spreadsheets or ranking lists used by any recruitment firm employed for the search and selection of the Deputy Police Chief in 2009.

13. It is found that the respondents provided the complainant with a copy of the application and resume of the successful candidate for the position of Deputy Police Chief and informed the complainant that they do not maintain any other records responsive to her request.

14. However, the complainant testified, and it is found, that she received copies of the same records described in paragraph 12, above, but related to the respondent town's 2009 employment search for a Deputy *Fire* Chief. The complainant contended that because she was able to obtain the records related to the respondent town's employment search for a Deputy *Fire* Chief she should be able to obtain the same records for the employment search for a Deputy *Police* Chief. The complainant also contended that pursuant the respondent town's policy and the state's records retention requirements, the requested records should exist and be on file with the respondents. The complainant requested that this Commission order the respondents to conduct a diligent search for the requested records and provide her with copies free of charge.

15. The Commission takes administrative notice of Conn. Gen. Stat. §§7-109, 11-8 and 11-8a which provide for a public records retention and destruction system administered by the state Public Records Administrator whereby any document in the custody of a public agency of a municipality may only be destroyed upon the approval of the Public Records Administrator.

16. It is also found that the respondent town's Administrative Policy Manual states that "original applications, resumes, copies of employment letters and copies of rejection letters, will be maintained in the files of Human Resources."

17. It is found that the respondents maintain no record that permission was sought and/or granted to destroy the requested records.

18. Notwithstanding the findings in paragraphs 14 through 17, above, it is found that the respondents conducted a diligent search for responsive records, and have provided the complainant with all records responsive to her request that are on file and maintained by them.¹

¹ The Commission notes that it does not have jurisdiction to enforce the records retentions rules or make determinations regarding compliance or non-compliance with those rules.

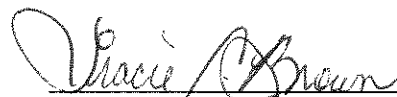
19. It is also found that the respondent director testified credibly, and it is found, that he had never seen the records related to the respondent town's 2009 search for a Deputy *Fire* Chief until the hearing in this matter, and that they are not maintained in his office despite the fact that such records would ordinarily be maintained within the director's office.

20. Finally, it is found that the complainant received the records related to the respondent town's search for a Deputy *Fire* Chief through discovery proceedings for a federal case in which she represents one of the parties. It is found that there is no evidence in the administrative record of this case that the respondents maintained those records or that she received them from the respondents' offices.²

21. It is concluded that the respondents did not violate 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. The complaint is hereby dismissed.



Attorney Tracie C. Brown
as Hearing Officer

FIC2014-524/hor/lcb/20151002

²It is found that the respondent town hired a consulting firm to conduct the search for the position of Deputy Fire Chief which firm maintained the records related to that search.