

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Noah Snyder,

Complainant

against

Docket #FIC 2018-0117

Donna Patchen, Assessor, City of  
Torrington; and City of Torrington,

Respondents

October 24, 2018

The above-captioned matter was heard as a contested case on May 17, 2018, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

The complainant, who is incarcerated, appeared via teleconference, pursuant to the January 2004 memorandum of understanding between the Commission and the Department of Correction. See Docket No. CV 03-0826293, Anthony Sinchak v. FOIC et al., Superior Court, J.D. of Hartford at Hartford, Corrected Order dated January 27, 2004 (Sheldon, J.).

During the hearing, the hearing officer ordered the complainant to submit additional documents. Pursuant to such order, the complainant submitted after-filed exhibits, which have been marked as follows:

Complainant's Exhibit B: Copy of multi-page document with cover letter dated March 28, 2018 with 4 memos directed to municipal assessors; and

Complainant's Exhibit C: Copy of multi-page document with cover letter dated March 26, 2018.

The hearing officer also ordered the respondents to conduct a search and to provide an affidavit attesting to whether they maintain any of the memos contained in Complainant's Exhibit B once they received a copy of the complainant's after-filed exhibit.

Pursuant to such order, the respondents submitted two after-filed exhibits, which have been marked as:

Respondents' Exhibit 2: Copy of a one-page memo to municipal assessors from the Undersecretary of the Intergovernmental Policy Division of the State of Connecticut Office of Policy and Management dated September 21, 2016;

Respondents' Exhibit 3: Copy of a one-page memo to municipal assessors from the Undersecretary of the Intergovernmental Policy Division of the State of Connecticut Office of Policy and Management dated September 27, 2016.

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 dated February 18, 2018, the complainant made a request to the respondent assessor for the following:
  - a. "all documents used to develop the tax bill identified as list number: 2016 MV 001633 including but not limited to documents related to the value assessment of all assessed property, and documents that allowed you to locate the billed party at 1106 North Avenue, in Bridgeport, Connecticut;"
  - b. "all Torrington, Connecticut Municipal Code[s] relating to and/or affecting property tax law, property tax billing, property tax assessment, property tax collection, and/or any other matter involving Torrington municipal property tax;" and
  - c. "any correspondence and/or any record, documentation, memorandum, emails, transcriptions and/or description of any constructions, disclosure of any type [of] conversation, and/or written correspondence between the Town of Torrington, CT and State of Connecticut regarding property tax assessment, collection MIL rate, MIL rate cap, tax late fee and/or interest change on property tax from January 1<sup>st</sup>, 2017 and present."

3. It is found that by letter dated February 22, 2018 and filed on March 7, 2018, the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to comply with his records request. The complainant requested the imposition of a civil penalty.

- d. failing to comply with his request “within four business days.”

9. It is found that the respondent assessor received the complainant’s request on March 1, 2018 and by letter dated March 5, 2018, informed the complainant that “there are no documents in this office responsive to [his] request.” It is found that the respondent assessor also referred the complainant to several statutory provisions from which he might be able to glean the information he sought.

10. It is found that in the “Re” section of the respondent assessor’s March 5, 2018 letter, the complainant’s request was identified as a February 28, 2018 letter rather than a February 18, 2018 letter. It is found that the incorrect date is clearly just a typographical error and it is concluded that there is no violation of the FOI Act in that regard.

11. With respect to the complainant’s request described in paragraph 2a, above, it is found that the respondent assessor does not maintain any records responsive to the complainant’s request.

12. With respect to the complainant’s request described in paragraph 2b, above, it is found that on May 3, 2018 the respondents, through the deputy assessor, provided the complainant with a copy of eight records related to the valuation of vehicles owned by the complainant.

13. It is also found that the City of Torrington’s Tax Code includes information that pertains to property taxes and that those portions of the tax code are responsive to the complainant’s request described in paragraph 2b, above. It is found, however, that such records were not provided to the complainant. At the hearing in this matter, the respondents stated that they would provide the complainant with the portions of the tax code that pertain to property taxes.

14. It is found that the respondent assessor does not maintain any other records responsive to the complainant’s request, described in paragraph 2b, above.

15. With respect to the complainant’s request described in paragraph 2c, above, the complainant contended, at the hearing in this matter, that the respondents should have provided, at the minimum, memoranda issued by the Undersecretary of the Intergovernmental Policy Division of the State of Connecticut Office of Policy and Management to municipal assessors regarding the recommended motor vehicle pricing schedule for the grand list. Pursuant to the order issued by the Hearing Officer at the May 17, 2018 hearing, the complainant submitted, as an after-filed exhibit, four memoranda dated September 27, 2013, September 19, 2014, September 28, 2015, and September 21, 2016. The after-filed exhibit was marked as Complainant’s Exhibit B: copy of multi-page document with cover letter dated March 28, 2018 with 4 memoranda directed to municipal assessors. He contended that the respondents violated the disclosure provisions of the FOI Act by failing to provide those four memoranda.

16. It is found that after the hearing in this matter, and upon receipt of a copy of Complainant's Exhibit B, the respondents conducted a search to determine if they maintained a copy of the same records pursuant to the order issued by the hearing officer at the May 17, 2018 hearing in this matter.

17. It is found that the respondents submitted as after-filed exhibits two memoranda sent to municipal assessors from the Undersecretary of the Intergovernmental Policy Division of the State of Connecticut Office of Policy and Management dated September 21, 2016 and September 27, 2017. The after-filed exhibits were marked as Respondents' Exhibits 2 and 3, respectively.

18. It is found that the respondents do not maintain any other records responsive to the complainant's request, described in paragraph 2c, above.

19. It is found that the respondents failed to promptly provide the complainant with a copy of the records described in paragraphs 12, 13 and 17, above, in violation of §§1-210(a), and 1-212(a), G.S.

20. With respect to the respondent assessor's initial response which was that she maintained no records responsive to the complainant's request, it is found that due to her retirement, she was not available to testify regarding her response. Consequently, that issue will not be addressed herein.

21. With respect to the complainant's contention that the respondents violated the FOI Act because they failed to comply with his request within four business days, the "four business day" reference is contained in §1-206(a), G.S., which provides: "[a]ny denial of the right to inspect or copy records provided for under section 1-210 shall be made to the person requesting such right by the public agency official who has custody or control of the public record, in writing, within four business days of such request.... Failure to comply with a request to so inspect or copy such public record within the applicable number of business days shall be deemed to be a denial."

22. It is well settled that the law does not require "immediate" access to records upon demand, but rather, permits a person the right to receive a copy of or inspect public records "promptly." The Commission has held that the meaning of the word "promptly" is a particularly fact-based question. In Advisory Opinion #51, In the Matter of a Request for Declaratory Ruling, Third Taxing District of the City of Norwalk, Applicant (Notice of Final Decision dated January 11, 1982), the Commission advised that the word "promptly," as used in §1-210(a), G.S., means quickly and without undue delay, taking into consideration all of the factors presented by a particular request.

23. Moreover, and as a corollary to the foregoing, it is well settled that the law does not require a public agency to provide a copy, or to allow inspection of, public records "within four business days" of the request as alleged by the complainant.

Rather, §1-206, G.S. ... simply provides a requester with the ability to file an appeal in the event an agency fails to respond to the request. After four business days have elapsed, if no response is received from an agency, then such non-response is deemed a denial for purposes of triggering the requester's right to file an appeal without having to wait indefinitely for a response that may never be forthcoming.

Burton M. Weinstein v. Assistant Attorney General, State of Connecticut, Office of the Attorney General, et al., Docket #FIC 1999-494 (May 10, 2000); see e.g., Karen Osbrey and WINY Radio v. Board of Education, Putnam Public Schools, Docket #FIC 2008-536 (February 11, 2009).

24. Consequently, it is concluded that the respondents did not violate the disclosure provisions of the FOI Act by failing to comply with his request within four business days.

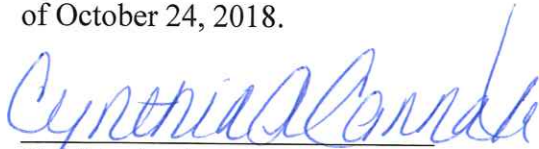
25. After consideration of the entire record in this case, the Commission declines to consider the imposition of a civil penalty against the respondents.

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

1. The respondents shall forthwith provide the complainant with a copy of the those portions of the City of Torrington's Tax Code that pertain to property taxes in response to the complainant's request described in paragraph 2b, above, free of charge.

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

Approved by Order of the Freedom of Information Commission at its regular meeting of October 24, 2018.



Cynthia A. Cannata  
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

**NOAH SNYDER**, 48 Howe Street, 4th Floor, New Haven, CT 06511

**DONNA PATCHEN, ASSESSOR, CITY OF TORRINGTON; AND CITY OF TORRINGTON**, c/o Attorney Jaime M. LaMere, Corporation Counsel, 140 Main Street, Torrington, CT 06790



Cynthia A. Cannata  
Acting Clerk of the Commission