

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Louise Czar,

Complainant

against

Docket #FIC 2016-0434

Edward Brown, President,
Bantam Fire Company; and
Bantam Fire Company,

Respondents

October 13, 2016

The above-captioned matter was heard as a contested case on August 29, 2016, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. For purposes of hearing, the matter was consolidated with Docket #FIC 2015-799; Louise Czar v. Chief, Bantam Fire Company, Town of Bantam; and Bantam Fire Company, Town of Bantam.

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 June 8, 2016, the complainant requested that the respondents provide her with copies of some records and access to other records, as follows:

REQUESTED COPIES:

- A. The list of “bills read” by the Treasurer and approved for payment by the membership at the June 7, 2016 monthly meeting of the Bantam Fire Company, Incorporated;
- B. All invoices (bills) for “legal costs” incurred by the Bantam Fire Company, Incorporated, from May 4, 2016 through June 7, 2016;
- C. The records of all committee meetings, including officers’ meetings, of the Bantam Fire Company, Incorporated, including all documents, whether in writing or recorded by means of electric equipment,

- emails, notes, voice recordings, meeting notices, agendas, and minutes (including all votes taken) for the month of May 2016, including, but not limited to, 100th Anniversary Committee and EMS Committee;
- D. The records of the monthly meeting [stet] of the Bantam Fire Company, Incorporated, including all documents, whether in writing or recorded by means of electronic equipment, emails, notes, voice recordings, meeting notices, agendas, and minutes (including votes taken) for June 7, 2016; and
 - E. The “Roll Call of Members” for the monthly meeting of the Bantam Fire Company, Incorporated, for June 7, 2016.

REQUESTED ACCESS:

- A. Bank statements for the “regular checking” account, including copies of checks drawn for the period covering May 1, 2016 through May 31, 2016;
- B. Bank statements for the “special checking” account, including copies of checks drawn for the period covering May 1, 2016 through May 31, 2016;
- C. Bank and/or investment company statements for the “Nationwide Investment Account,” including copies of checks drawn for the period covering May 1, 2016 through May 31, 2016;
- D. Bank and/or investment company statements for the “Edward Jones Investment Account,” including copies of checks drawn for the period covering May 1, 2016 through May 31, 2016;
- E. Bank and/or investment company statements for the “EMS Ambulance Billing Account,” including copies of checks drawn for the period covering May 1, 2016 through May 31, 2016; and
- F. Bank and/or investment company statements for any other additional bank and/or investment account including copies of checks drawn for the period covering May 1, 2016 through May 31, 2016.

3. It is found that, by letter dated June 11, 2016, the respondents acknowledged the request, and indicated that they would provide the complainant with the requested records by July 8, 2016.

4. By letter dated and filed June 13, 2016, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide her with copies of and access to records described in paragraph 2,

above.

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, (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.

7. 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.”

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

9. At the contested case hearing, the complainant contended that the respondents did not provide her with all of the requested records (particularly the records pertaining to the respondents’ 100th anniversary meetings), did not promptly provide her with the records that they did disclose to her, and provided her with copies of certain records described in paragraph 2, above, when what she requested was access to such records.

10. The respondents contended that the respondent fire company provided the complainant with all of the records in its possession. The respondents further contended that it could not provide the complainant with immediate access to the requested monthly statements because, at the time they received the request, they had not received the monthly statements. Finally, the respondents acknowledged that they provided the complainant with copies of records instead of access, but they indicated that they did not charge her a per page fee for such records.

11. Section 7-314, G.S., provides, in relevant part, as follows:

(b) The records and meetings of a volunteer fire department which is established by municipal charter or constituted as a not-for-profit Connecticut corporation shall not be subject to the provisions of the Freedom of Information Act, as defined in section 1-200, if such records and meetings concern fraternal or social matters. Records and meetings concerning matters of public safety, expenditures of public funds or other public business shall be subject to disclosure under said sections.

12. It is found that the neither the word “fraternal” nor “social” is defined in the statute. However, in the construction of statutes, words and phrases must be construed according to the commonly approved usage. See §1-1 (a), G.S. (“Words and phrases. Construction of Statutes.”)

13. The word fraternal is defined as: “[O]f or pertaining to brothers . . . showing comradeship; brotherly. . . .” The American Heritage Dictionary Second College Edition. Boston, MA: Houghton Mifflin, 1982.

14. The word fraternize is defined as: “[T]o associate with others in a . . . congenial way. . . .” “To engage in comradely social intercourse.” “To be friendly or amiable.” Id.

15. Finally, the word fraternity is defined as: “[T]he quality or state of being brotherly or very friendly. . . .” Webster’s Third New International Dictionary of the English Language, Unabridged. Springfield, MA: Merriam-Webster, 1993.

16. It is found that the respondent fire company is a volunteer fire department which was established as a not-for-profit Connecticut corporation, within the meaning of §7-314(b), G.S.

17. It is found that, under cover letter dated July 1, 2016, the respondents provided the complainant with copies of the records that she had requested. It is further found that the respondents also provided the complainant with copies of the records to which she had requested access. It is found that the respondents did not charge the complainant for any of the copies. Finally, it is found that the complainant never stated to the respondents nor testified at the hearing that she needed or desired to review the “original” records.

18. While the complainant contends that the respondents should be forbidden from providing her with copies of records when she specifies that she wants access to records, the Commission concludes that such argument is without merit in this case. It is found that providing the complainant with copies of requested records was an acceptable method for granting her access to such records.

19. Next, it is found that there are no other records in the respondents’ possession that are responsive to the request. Moreover, it is found that, with regard to records

pertaining to the respondents' 100th anniversary meetings, the respondents specifically informed the complainant, as follows:

There are no minutes for the "100th Anniversary" meetings. That committee and its meetings are fraternal in nature, [and are] simply dealing with our parade and celebration in August. They are not subject to the FOI.

20. It is found that the respondents' 100th Anniversary meetings, which meetings concern the details and coordination of a celebration regarding the respondent fire department's 100th year in existence, are fraternal and social in nature. As such, it is found that the meeting minutes of this committee (which the respondents indicated do not exist) and the records created by this committee are not subject to the provisions of the FOI Act.

21. Finally, the complainant contended that the records were not provided to her promptly.

22. 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.

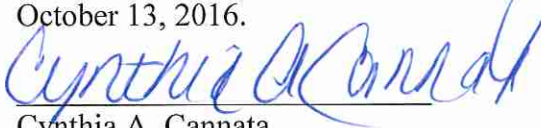
23. It is found that, when the respondents received the request described in paragraph 2, above, they informed the complainant that they would be able to provide her with the requested records by July 8, 2016. See ¶ 3, above. It is found that the requested financial records are delivered to the respondents by independent financial institutions. It is found that, on the day that the respondents received the complainant's request, they were not in possession of the requested financial records. It is further found that the respondents do not have the ability to access the requested financial records online; rather, they must wait for such records to be mailed to them. Accordingly, it is found that the respondents held the complainant's request until such they had received the requested financial records. It is found that, upon receiving such records, the respondents provided all of the requested records to the complainant. See ¶ 17, above.

24. It is found that the respondents did not violate the promptness requirements of §§1-210(a) and 1-212(a), G.S. It is further concluded that the respondents did not violate the FOI Act as alleged in the complaint.

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.

Approved by Order of the Freedom of Information Commission at its regular meeting of October 13, 2016.



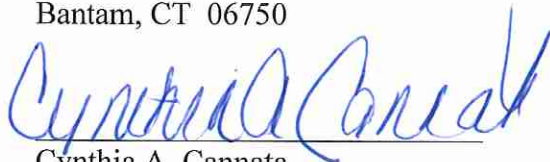
Cynthia A. Cannata
Acting Clerk of the Commission

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:

Louise Czar
400 Bantam Lake Road
Bantam, CT 06750

Edward Brown, President,
Bantam Fire Company; and
Bantam Fire Company
92 Doyle Road
P.O. Box 456
Bantam, CT 06750



Cynthia A. Cannata
Acting Clerk of the Commission