

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

John Matava,

Complainant

against

Docket #FIC 2016-0099

Building Department, Town of Vernon;
and Town of Vernon,

Respondents

December 7, 2016

The above-captioned matter was scheduled to be heard as a contested case on May 31, 2016, at 11:00 a.m., at which time the respondents appeared but the complainant failed to appear.

A report of hearing officer, dated May 31, 2016, recommending dismissal of the complaint for failure to prosecute, was considered by the Commission at its regular meeting on July 12, 2016, at which time the plaintiff appeared seeking to reopen the matter. The Commission voted to remand the matter to the hearing officer with direction to reopen the hearing.

A reopened hearing was held on September 27, 2016, at which time the complainant and the respondents appeared, and presented testimony, exhibits and argument on the complaint. A continued hearing thereafter was scheduled for November 8, 2016; however, after careful consideration of the record in this case, the hearing officer determined that such continued hearing was unnecessary (see the findings and conclusions, below).

1. The respondents are public agencies, within the meaning of §1-200(1), G.S.
2. It is found that, by letter to the respondents dated December 29, 2015, the complainant requested “to inspect or receive copies” from the respondents of “all building and zoning violations that [were] given out between...November 1, 2014 and December 29, 2015, along with the corrections that [were] made from the violation and the penalties that [were assessed] for each violation.”
3. It is found that, by letter dated January 5, 2016, the respondents acknowledged the request, described in paragraph 2, above, and informed the complainant that “[f]or your information, you are welcome to come to view this file during business hours. If you require any copies, the cost is \$1.00 per page.” (Emphasis added).

4. By letter dated February 2, 2016, the complainant appealed to this Commission, alleging that “as of [this] date, no one in the Town...has contacted me regarding my request, nor has any information been released.”

5. It is found, however that the respondent town had, in fact, contacted the complainant on January 5, 2016, and offered the complainant an opportunity to inspect the records (see paragraph 3, above).

6. Section 1-200(5), G.S., provides:

“[p]ublic 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:

[e]xcept 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 1-206(b)(1), G.S., provides, in relevant part, that:

[a]ny person denied the right to inspect or copy records under section 1-210 or wrongfully denied the right to attend any meeting of a public agency or denied any other right conferred by the Freedom of Information Act may appeal therefrom to the Freedom of Information Commission, by filing a notice of appeal with said commission. A notice of appeal shall be filed not later than thirty days after such denial.... (Emphasis added).

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

10. It is found that the respondents, by their January 5, 2016 letter, did not deny the request, described in paragraph 2, above. The request indicated that the complainant was seeking to inspect or to receive copies of the records at issue, and the respondents' January 5, 2016 letter invited the complainant to inspect the files.

11. It is found that the complainant did not attempt to inspect the records prior to the filing of the complaint in this matter.

12. Based on the foregoing, it is 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 hereby dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of December 7, 2016.



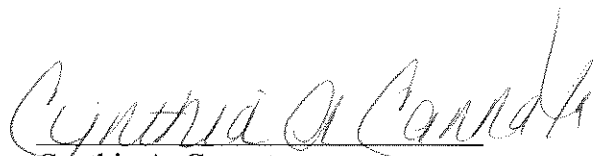
Cynthia A. Cannata
Acting Clerk of the Commission

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:

John Matava
9 George Drive
Vernon, CT 06066

Building Department, Town of Vernon;
and Town of Vernon
c/o Martin B. Burke, Esq.
P.O. Box 388
130 Union Street
Rockville, CT 06066



Cynthia A. Cannata
Acting Clerk of the Commission