

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by)
Nicholas Costeines,)
Complainant)
)
against)
)
March 9, 1977)
)
State of Connecticut; and)
Chairman of the State Board for)
Professional Engineers and Land)
Surveyors, Respondents)
)

The above captioned matter was heard as a contested case on February 28, 1977, at which time the complainant and the respondents appeared and presented testimony, exhibits, and argument on the complaint.

After consideration of the entire record, the following facts are found:

1. The respondent board is a public agency as defined by §1-18a(a), G.S.
2. By letter dated January 20, 1977, the complainant sought access to the contents of the application file of a certain individual, which file is kept and maintained by the respondent board.
3. On Friday, January 28, 1977, the complainant was not permitted access to the aforesaid file as requested, and it is from this failure of the respondent board to comply with such request that the complainant appealed to this Commission by letter filed herewith on February 9, 1977.
4. The file here in issue contains the employment history of the individual in question. In addition, it contains personal references, submitted by many individuals, regarding his reputation and character. These submissions were sought both by the respondent board and such individual.
5. The aforesaid requested records are public records or files within the meaning of §1-18a(d), G.S.
6. The respondent board contends that the records herein requested are exempt from disclosure pursuant to §1-19(b)(1), G.S. as personnel or medical files and similar files the disclosure of which would constitute an invasion of privacy.
7. It is found that such file is not a personnel or medical file and similar file within the maning of §1-19(b)(1), G.S.

8. The respondent board further contends that the personal references contained in such file should not be disclosed because the respondent board promised the endorsers that their statements would be held in confidence.

9. While this policy of confidentiality is understandable in order for the respondent board to obtain uninhibited recommendations, neither P.A. 75-342 nor any other statute authorized the respondent to create such an exemption by its own act of solicitation. No such delegation of authority was contemplated by the General Assembly.

10. Lastly, the respondent board contends that the contents of the aforesaid requested file should not be ordered disclosed by this Commission pursuant to the legislative policy embodied in P.A. 76-421.

11. P.A. 76-421 is not effective until July 1, 1977 and is therefore not currently binding. This Commission declines to invoke an unclear policy of prospective legislation in this case. It should be noted that this Commission has submitted to the 1977 General Assembly proposed revisions to P.A. 76-421 which, if enacted, would clarify and conform that Act to P.A. 75-342.

12. The Commission therefore concludes that access to the file containing such application and endorsements is required under §1-19, G.S.

The following order by the Commission is hereby recommended on the basis of the record and findings concerning the above captioned matter:

1. The respondent board shall forthwith make available to the complainant for inspection or copying the application file of the individual named in the complainant's letter of January 20, 1977.


2. The complainant shall be permitted to conduct such inspection during the normal business hours and at the office of the respondent board.



Commissioner Helen Loy

as Hearing Officer

Approved by order of the Freedom of Information Commission on
March 23, 1977.



Louis J. Tapogna, as Clerk of the
Freedom of Information Commission