

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Alan R. Dikeman,

Complainant

Report of Hearing Officer

against

Docket #FIC79-92

City and Town of Norwalk; and
Personnel Director of the City
and Town of Norwalk,

Respondents

November 28, 1979.

The above captioned matter was heard as a contested case on September 25, 1979, 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:

1. The respondents are public agencies as defined by §1-18a(a), G.S.

2. By letter dated February 15, 1979, the complainant requested of the respondent personnel director access to inspect and/or copy 7 categories of records.

3. The respondent personnel director replied to the foregoing request by letter dated February 23, 1979, granting access to certain records, denying access to others and stating that still others do not exist.

4. Treating the letter of February 23, 1979 as a denial under §1-21i(b), G.S., the complainant appealed to the Commission by letter filed on March 16, 1979.

5. At the hearing on this complaint, the parties stipulated that items #1 and #4 of the complainant's request were no longer in dispute and therefore need not be considered by the Commission.

6. It is found that item #2 of the complainant's request, the resume of the respondent town's back tax collector Ellen Gordon, is not in the custody, possession or control of the respondents and is therefore not a public record within the meaning of §§ 1-18a(d) and 1-19(a), G.S.

7. It is found that with respect to item #3 of the complainant's request:

a. No personnel manual for the respondent town currently exists.

b. No written personnel rules, regulations or procedures are currently in effect other than those set forth in collective bargaining agreements. Certain draft personnel rules do exist, however, and these, like the collective bargaining agreements, have been, or will be, made available by the respondents to the complainant.

8. It is found that the information sought in item #5 of the complainant's request is not within the custody, possession or control of the respondent personnel director. It is also found that to the extent that such information exists, it is maintained by the respondent town's payroll department and constitutes a public record within the meaning of §§1-18a(d) and 1-19(a), G.S.

9. It is found that with respect to item #6 of the complainant's request:

a. The respondent personnel director has not maintained any notes or "memos to file" pertaining to the complainant, except for official personnel records kept in the complainant's personnel and CETA files.

b. The complainant has had complete access to his personnel and CETA files.

c. It was not proved that any other official or employee of the respondent town maintains any records pertaining to the complainant, except for time cards and payroll data which have been, or will be, made available to the complainant by the respondent town's payroll department.

10. It is found that the records sought in item #7 of the complainant's request, the personnel files of all employees in the respondent town's tax collector's office from May 26, 1977, are public records within the meaning of §§1-18a(d) and 1-19(a), G.S. It is also found, however, that such records are exempt from disclosure under §1-19(b)(2), G.S., except for the following:

a. Attendance records, including records of employee tardiness.

b. Work performance records, including letters or memoranda of commendation or discipline.

11. It is found that the records described in sub-paragraphs a and b of paragraph 10, above, relate directly to the conduct of the public's business, and therefore the disclosure of such records is found not to constitute an invasion of the personal privacy of the public employees concerned.

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 access to inspect or copy:

a. Any existing personnel rules, regulations or procedures of the respondent town without regard to whether such rules, regulations or procedures are in effect, under consideration or contained in any collective bargaining agreements.

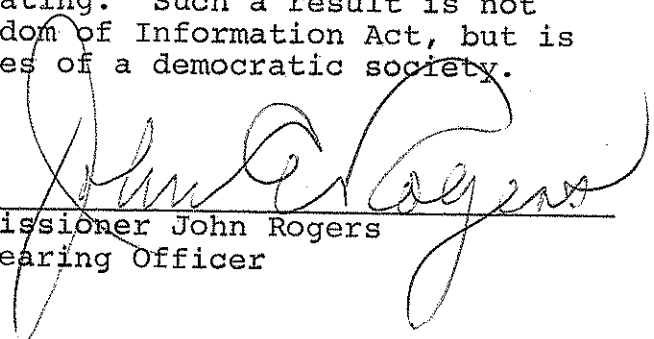
b. The records of the respondent town's payroll department containing the information described in item #5 of the complainant's letter of February 15, 1979. In complying with this provision of the Commission's order, the respondents may delete, or otherwise conceal, any employee information other than that which is explicitly ordered to be provided to the complainant herein.

c. The time cards and other payroll data concerning the complainant's employment with the respondent town, which are maintained by the respondent town's payroll department.

d. The attendance and work performance records maintained by the respondent personnel director and the payroll department of the respondent town described in sub-paragraphs a and b of paragraph 10 of the above findings, for those employees described in item #7 of the complainant's letter of February 15, 1979. In complying with this provision of the Commission's order, the respondents may delete, or otherwise conceal, any employee information other than that which is explicitly ordered to be provided to the complainant herein.

2. In all other respects, the complaint is dismissed.

3. The Commission notes that much of the difficulty giving rise to this complaint is based upon the deplorable record-keeping procedures of the personnel department of the respondent town and its lack of written personnel policy. The Commission recognizes that the incumbent personnel director inherited these defects and commends her for forthrightly admitting to the gravity of the situation and apparently attempting to rectify it. Without adequately maintained public records, the employees concerned, as well as the people whom they serve, will have no real idea of how effectively their governmental agencies are operating. Such a result is not only at cross-purposes with the Freedom of Information Act, but is totally antithetical to the principles of a democratic society.



Commissioner John Rogers
as Hearing Officer