



FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
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Priscilla Dickman,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2012-491

Commissioner, State of Connecticut,
Department of Administrative Services; and
State of Connecticut, Department of
Administrative Services, Communications
Office,

Respondent(s)

May 29, 2013

Transmittal of Proposed Final Decision

In accordance with Section 4-179 of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision prepared by the hearing officer in the above-captioned matter.

This will notify you that the Commission will consider this matter for disposition at its meeting which will be held in the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, 1st floor, Hartford, Connecticut, at **2 p.m. on Wednesday, June 26, 2013**. At that time and place you will be allowed to offer oral argument concerning this proposed finding and order. Oral argument shall be limited to ten (10) minutes. For good cause shown, however, the Commission may increase the period of time for argument. A request for additional time must be made in writing and should be filed with the Commission **ON OR BEFORE June 14, 2013**. Such request **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, and (2) include a notation indicating such notice to all parties or their representatives.**

Although a brief or memorandum of law is not required, if you decide to submit such a document, the Commission requests that an **original and fourteen (14) copies** be filed **ON OR BEFORE June 14, 2013**. PLEASE NOTE: **Any correspondence, brief or memorandum directed to the Commissioners by any party or representative of any party MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, (2) include a notation indicating such notice to all parties or their representatives and (3) be limited to argument. NO NEW EVIDENCE MAY BE SUBMITTED.**

If you have already filed a brief or memorandum with the hearing officer and wish to have that document distributed to each member of the Commission, it is requested that **fourteen (14) copies** be filed **ON OR BEFORE June 14, 2013**, and that **notice be given to all parties or if the parties are represented, to their representatives, that such previously filed document is being submitted to the Commissioners for review.**

By Order of the Freedom of
Information Commission

W. Paradis
Acting Clerk of the Commission

Notice to: Priscilla Dickman
Jeffrey R. Beckham, Esq.

5/29/13/FIC# 2012-491/Trans/wrbp/VRP/TCB

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report Of Hearing Officer

Priscilla Dickman,

Complainant

against

Docket #FIC 2012-491

Commissioner, State of Connecticut,
Department of Administrative Services; and
State of Connecticut, Department of
Administrative Services, Communications Office,

Respondents

May 29, 2013

The above-captioned matter was heard as a contested case on April 1, 2013, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. The respondents submitted the records at issue in this case for an in camera inspection.

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 filed September 5, 2012, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by denying her request for public records.
3. It is found that the complainant made an August 18, 2012 request for:

"Copies of any and all emails, computer generated communications which should include but not be limited to:

"Any and all letters, documents, written communication, interoffice mail, written records, memos, notes, emails, computer generated such as texts, faxes, etc. This would of course include but not be limited to "cover letters", instructions, directions, questions, areas of concern, commentary, conclusions on patient (myself) sent,

generated, and/or communicated by assistant attorney general Widem, Shultz, Posner, McDonough, Stephen Park or Sharon Allen to any medical facility, treating physicians/treaters and/or perspective [sic] medical treaters, state agencies and/or quasi-state agencies which would include but not be limited to the CHRO, UConn Health Center, UConn, Ethics Board, CEAB, SRES individual state employees including but not limited to agency heads which reference myself (Priscilla Dickman and/or state employee #307226 and/or I am identified by injury claim dates of 10/19/1979 or a recent fall of January 16, 2005 or the words jewelry, travel or investigation.

“In their entirety and as sent any and all letters, documents, written communication, interoffice mail, written records, memos, notes, emails, computer generated such as texts, faxes, etc. This would of course include but not be limited to “cover letters”, instructions, directions, questions, areas of concern, commentary, conclusions on patient (myself) sent, generated, and/or communicated by assistant attorney general Widem, Shultz, Posner, McDonough, Stephen Park or Sharon Allen to any medical facility, treating physicians/treaters and/or perspective [sic] medical treaters, state agencies and/or quasi-state agencies which would include but not be limited to the CHRO, UConn Health Center, UConn, Ethics Board, CEAB, SRES individual state employees including but not limited to agency heads which reference myself (Priscilla Dickman and/or state employee #307226 and/or I am identified by injury claim dates of 10/19/1979 or a recent fall of January 16, 2005 or the words jewelry, travel or investigation.

“Copies of any and all evidence you have accumulated concerning myself (Priscilla Dickman and/or state employee #307226 and/or I am identified by injury claim dates of 10/19/1979 or a recent fall of January 16, 2005 or the words jewelry, travel, investigation or confidential) concerning and all matters.

Copies of any and all surveillance reports submitted and/or on file with D.O.I.T. which reference myself (Priscilla Dickman, State Employee #307226, jewelry, travel, or ethics investigation, investigation, confidential)

“Copies of any and all records on file and/or you maintain concerning any and all C.H.R.O. Information

which references myself (Priscilla Dickman, State Employee #307226, jewelry, travel, or ethics investigation, investigation, confidential).

“Copies of any and all records on file at C.H.R.O. that you have access to and/or concerning any and all C.H.R.O. information which references myself (Priscilla Dickman and/or state employee #307226 and/or I am identified by injury claim dates of 10/19/1979 or a recent fall of January 16, 2005 or the words jewelry, travel, investigation or confidential).”

4. It is found that the respondents replied on August 29, 2012 that they had no records beyond what had already been disclosed to the complainant.

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:

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

8. It is found that the respondents conducted a diligent search for any records pertaining to the complainant, and produced at 8-inch stack of records that was made available to the complainant before her August 18, 2012 request.

9. The complainant maintains that records must have been withheld from her because she is in possession of certain emails from July 2005 that were not within the stack of records she reviewed.

10. It is found, however, that the only documents withheld from the complainant are 14 emails that the respondents contend are exempt from disclosure under §1-210(b)(10), G.S., as “communications privileged by the attorney-client relationship.”

11. The applicability of the exemption contained in §1-210(b)(10), G.S., is governed by established Connecticut law defining the privilege. Maxwell v. FOI Commission, 260 Conn. 143 (2002). In Maxwell, the Supreme Court stated that §52-146r, G.S., which established a statutory privilege for communications between public agencies and their attorneys, merely codifies “the common-law attorney-client privilege as this court previously had defined it.” Id. at 149.

12. Section 52-146r(2), G.S., defines “confidential communications” as:

all oral and written communications transmitted in confidence between a public official or employee of a public agency acting in the performance of his or her duties or within the scope of his or her employment and a government attorney relating to legal advice sought by the public agency or a public official or employee of such public agency from that attorney, and all records prepared by the government attorney in furtherance of the rendition of such legal advice. . . .

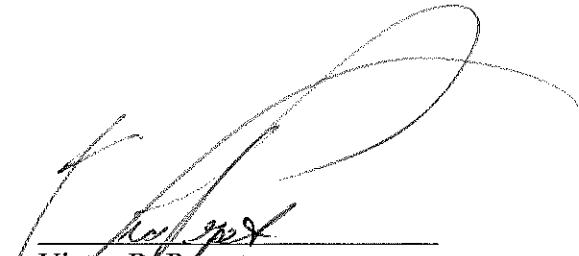
13. The Supreme Court has also stated that “both the common-law and statutory privileges protect those communications between a public official or employee and an attorney that are confidential, made in the course of the professional relationship that exists between the attorney and his or her public agency client, and relate to legal advice sought by the agency from the attorney.” Maxwell, supra at 149.

14. It is found that all the emails withheld by the respondents all relate to legal advice sought by the respondents in the defense of workers compensation claims or other matters involving the complainant, and that all were transmitted in confidence between a public official or employee of a public agency and an assistant attorney general.

15. It is concluded that the withheld emails are exempt from mandatory disclosure by virtue of §1-210(b)(10), G.S., and that the respondents did not violate the FOI Act as alleged.

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.



Victor R. Perpetua
As Hearing Officer

HOR/FIC2012-491/VRP/05282013