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FREEDOM OF INFORMATION
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Frank Vartuli,
Complainant(s)
against

Director of Legal Affairs, City of Stamford; and
City of Stamford,
Respondent(s)

Notice of Meeting

Docket #FIC 2013-028

September 25, 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, lst floor, Hartford, Connecticut, at **2 p.m. on Wednesday, October 23, 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 October 11, 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, an **original and fourteen (14) copies** must be filed ***ON OR BEFORE October 11, 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 October 11, 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: Frank Vartuli
Burt Rosenberg, Esq.
Chris Dellaselva, Esq.

2013-09-25/FIC# 2013-028/Trans/wrbp/CAL//LFS

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Frank Vartulli,

Complainant

against

Director of Legal Affairs, City of Stamford; and City of Stamford,

Respondents

Report of Hearing Officer

Docket # FIC 2013-028

September 25, 2013

The above-captioned matter was consolidated for hearing with Docket #FIC 2013-029; Frank Vartulli v. Chairman, Board of Assessment Appeals, City of Stamford; and Board of Assessment Appeals, City of Stamford, and was heard as a contested case at consolidated hearings on September 17, 2013. At the hearing, 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 and conclusions of law are reached:

1. The respondents are public agencies within the meaning of §1-200(1)(A), G.S.

2. It is found that by letter dated December 17, 2012, the complainant requested "all documents explaining the basis of any criteria, guidelines, price schedules, formulas or statement of procedures used in the revaluation revision of 70 Rippowam Road for the years 2006 through 2011" (the "requested records").

3. It is found that by letter dated December 20, 2012, the respondents acknowledged the request and stated that there "are no documents in existence" within the scope of the requested records.

4. It is found that, by letter dated January 14, 2013 and filed with the Commission on January 22, 2013, the complainant appealed to the Commission, attaching a copy of his request letter, and alleging that the respondents violated the Freedom of Information Act ("FOIA").

5. It is found that the complainant and the respondents have been parties to a dispute concerning the assessment of the property at 70 Rippowam Road more or less continuously since 2006 and a tax appeal is now pending in Superior Court. Since 2006, the complainant has met with the Tax Assessor on two occasions as well as the respondent Director of Legal Affairs. The dispute was reviewed by the Director of

Administration, the City's most senior official below the Mayor. Following the December 17, 2012 records request, the complainant met with a representative of Vision Government Solutions, Inc., an independent contractor that calculated assessments for the City. As a result of this process, the assessment of 70 Rippowam Road was reduced by 17 percent as of October 1, 2012 compared to October 1, 2007.

6. It is also found that the parties have engaged in extended correspondence concerning the assessment of the property at 70 Rippowam Road. Specifically, on December 2, 2010, the assessor's office responded to the request of the complainant, providing comparable sales data. On January 24, 2011, the Tax Assessor responded to the complainant's letter of December 28, 2010, stating that his "staff has met with you on various occasions...[and has] reviewed the assessment...." On February 9, 2011, the Director of Administration provided forms and outlined the steps to appeal assessment decisions. The assessor's card for 70 Rippowam Road has been provided to the complainant.

7. It is further found that on June 27, 2011, the chairman of the Board of Assessment Appeals responded to a written request by the complainant that seems identical to the request at issue in this case. The chairman characterized the complainant's request as a request for "a written narrative description of data and information explaining the basis of any criteria, guidelines, price schedules, formulas or statement of procedure" used in the revaluation revision of 70 Rippowam Road for the years 2006 through 2011. The chairman's response stated it is "beyond the scope of this Board to provide a written narrative." On August 18, 2011, the Tax Assessor sent a similar letter to the complainant. Again on September 13, 2011, the Tax Assessor sent the complainant a second response following a second request for "a written narrative." On November 16, 2011, the Tax Assessor responded to the complainant's November 10, 2011 letter, seeking clarification whether the complainant was seeking "raw data" or explanatory materials.

8. It is found that the respondents do not maintain records that provide the explanation sought in the complainant's request. If such records exist, they are the property of Vision Government Solutions, Inc., which, as noted above, calculated assessments for the City. The Commission has had a line of cases holding that the formula, or set of calculations, that an independent contractor uses to establish assessments is the proprietary property of the independent contractor. Docket #FIC 2009-223; Betts Island Oyster Farms, LLC v. Office of the Tax Assessor, City of Norwalk; Docket #FIC 2009-244; Audrey Cole v. Office of the Assessor, Town of Sharon. These cases, based on the trade secret exemption at §1-210(b)(5), G.S., were recently reaffirmed by Docket #FIC2012-701; Saluga v. Assessor, Town of Brookfield; and Town of Brookfield, another case involving Vision Government Solutions, Inc.

9. 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.

10. Sections 1-210(a) and 1-212(a), G.S., state, respectively, in relevant parts:

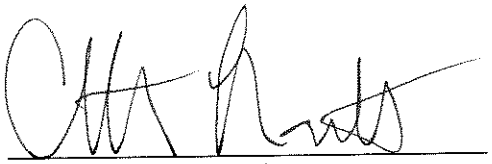
> Except as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to (1) inspect such records 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.
>
> ...
>
> Any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.

11. It is concluded that the requested records, if any exist, are "public records" within the meaning of §§1-200(5), 1-210(a) and 1-212(a), G.S.

12. Based on the foregoing, it is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., when they stated that there "are no documents in existence" within the scope of the requested records.

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.



Clifton A. Leonhardt
as Hearing Officer