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FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
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Paul G. Littlefield,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2013-124

Director, Department of Public Works,
Town of Trumbull; and Department of Public
Works, Town of Trumbull,

November 20, 2013

Respondent(s)

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 **special 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, December 18, 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 November 29, 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 November 29, 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 November 29, 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: Paul G. Littlefield
Edward V. Walsh, Esq. and Dennis J. Kokenos, Esq.

11/20/13/FIC# 2013-124/SpecialMtgTrans/wrbp/PSP//KKR

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Paul G. Littlefield,

Complainant

Docket # FIC 2013-124

against

Director, Department of Public Works,
Town of Trumbull; and Department of
Public Works, Town of Trumbull,

Respondents

November 19, 2013

The above-captioned matter was heard as a contested case on July 30, 2013, at which time the complainant and 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 and conclusions of law are reached:

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. It is found that, by letter dated February 19, 2013, the complainant made a request to the respondents for:

information regarding snow plowing of Hedgehog Road and Hedgehog Circle for the period, running, from February 8, 2013, 6:00 PM through February 12, 2013, 6:00 PM.

Requested are documents detailing the plow route(s) for the street(s) of 1) Hedgehog Road and 2) Hedgehog Circle. Including the name(s) and clock number of driver(s), the name(s) of the plow-trucks, the time the plow and driver arrived at Stern Village, the time plow and driver left Stern Village for each and every time, of each day, Hedgehog Circle at Stern Village was plowed.

3. By letter dated February 28, 2013, the complainant appealed to this Commission,

alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide him with all records responsive to his February 19th request. At the July 30th hearing in this matter, the complainant also requested the imposition of civil penalties against the respondents.

4. Section 1-200(5), G.S., defines “public records or files” as:

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.

5. Section 1-206, G.S., provides in relevant part that:

(a) Any denial of the right to inspect or copy records provided for under section 1-210 shall be made to the person requesting such right by the public agency official who has custody or control of the public record, in writing, within four business days of such request. . . . Failure to comply with a request to so inspect or copy such public record within the applicable number of business days shall be deemed to be a denial.

6. Section 1-210(a), G.S., provides in relevant part that:

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 . . . (3) receive a copy of such records in accordance with section 1-212.

7. Section 1-212(a), G.S., provides in relevant part that “any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

8. It is found that the records requested by the complainant, to the extent that they exist, are public records within the meaning of §§1-200(5), 1-210(a) and 1-212(a), G.S.

9. It is found that the respondents did not respond to the complainant’s February 19th records request prior to the July 30, 2013 hearing in this matter, approximately five months after the complainant’s request. It is found that after the complainant’s appeal was docketed by the FOI Commission, the respondents conducted a search and located a road maintenance agreement between the Trumbull Housing Authority and the Town of Trumbull setting forth, in part, the

Town's responsibilities for snow plowing Stern Village. A copy of the road maintenance agreement was provided to the complainant at the July 30th hearing.

10. It is found that the road maintenance agreement, described in paragraph 9, above, is not responsive to the complainant's request.


11. At the hearing, the respondent Director testified that upon receiving the complainant's request he forwarded such request to town counsel, but did not follow-up on the status of the response. The respondent Director also testified that he understood the complainant's February 19th request to be a request for site-specific, time-specific, personnel and equipment-specific information with respect to the respondent Department's snow plowing operations at Stern Village during the February 2013 blizzard. According to the respondent Director, the respondents did not document such specific information during the February 2013 blizzard when the amount of snow precluded a conventional snow plowing response and ad hoc decisions were being made to prioritize certain routes to provide emergency access.

12. The complainant contends that the types of records that he seeks are readily available and routinely kept by the respondents by electronic or manual means and are common records kept by any well-run public agency or business entity.

13. However, it is found that the respondents do not maintain records responsive to the complainant's February 19th request. It is therefore concluded that the respondents did not violate the FOI Act.

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.
2. Although the Commission concluded that there was no violation in this case, it is nonetheless both better practice and common courtesy to respond to requesters, even if records do not exist, in order to prevent unnecessary complaints and hearings that waste valuable state resources.


Paula Sobral Pearlman
as Hearing Officer