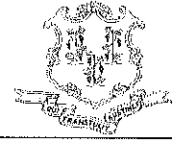


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FREEDOM OF INFORMATION



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Mary Beth Litrico,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2013-350

President, Eighth Utilities District, Town of Manchester;
and Eighth Utilities District, Town of Manchester,
Respondent(s)

February 3, 2014

Corrected 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 Tuesday, February 11, 2014**. 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 February 7, 2014**. 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 February 7, 2014**. **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 February 7, 2014**, 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: Mary Beth Litrico
John D. LaBelle, Jr., Esq.

1/6/14/FIC# 2013-350/Trans/wrbp/TCB//TAH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Mary Beth Litrico,

Complainant

against

Docket #FIC 2013-350

President, Eighth Utilities District,
Town of Manchester; and Eighth
Utilities District, Town of Manchester,

Respondents

December 23, 2013

The above-captioned matter was heard as a contested case on November 7, 2013 at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. For the purpose of hearing, the above-captioned matter was consolidated with Docket #FIC 2013-471; Mary Beth Litrico v. President, Eighth Utilities District, Town of Manchester; and Eighth Utilities District, Town of Manchester.

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 dated June 6, 2013 and filed on June 11, 2013, the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to promptly provide her with access to inspect a public record.
3. It is found that by letter dated June 3, 2013, the complainant made a request to the respondents for access to listen to a tape recording of a meeting that allegedly occurred in April or May of 2013 regarding the security of the tax office. The complainant specifically asked that she be given access on June 6, 2013.
4. It is found that the complainant called the respondents on June 6, and 7, 2013, to inquire about the status of her request and to arrange a time for her to listen to the tape. It is found that she was not given access to listen to the tape on either of those dates.

5. It is found that the complainant was given access to listen to the requested tape recording on June 11, 2013.¹

6. 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.

7. 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... Any agency rule or regulation, or part thereof, that conflicts with the provisions of this subsection or diminishes or curtails in any way the rights granted by this subsection shall be void.

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

9. With respect to the timeliness of the respondents' compliance, the meaning of the word "promptly" is a fact-based question that has been previously addressed by the FOI Commission. In Advisory Opinion #51, In the Matter of a Request for Declaratory Ruling, Third Taxing District of the City of Norwalk, Applicant (Notice of Final Decision dated January 11, 1982) the Commission advised that the word "promptly" as used in §1-210(a), G.S., means quickly and without undue delay, taking into consideration all of the factors presented by a particular request. The Commission also gave the following guidance:

The Commission believes that timely access to public records by persons seeking them is a fundamental right conferred by the Freedom of Information Act. Providing such access is therefore as much a part of their mission as their other major functions. Although each agency must determine its own set of priorities in dealing with its responsibilities within its limited resources, providing access to public records should be considered as one such priority.

¹ It is noted that June 8 and 9, 2013 were a Saturday and a Sunday respectively.

10. The advisory opinion describes some of the factors that should be considered in weighing a request for records against other priorities: the volume of records requested; the time and personnel required to comply with a request; the time by which the person requesting records needs them; the time constraints under which the agency must complete its other work; the importance of the records to the requester, if ascertainable; and the importance to the public of completing the other agency business without the loss of the personnel time involved in complying with the request.


11. It is found that the respondent president received the complainant's request on June 3, 2013 during a week when her office was short staffed and also very busy with drafting the district's grand list for the issuance of tax bills at the end of the month. It is found that the respondent president had trouble locating the requested tape recording because the complainant was not able to provide the exact date that the recording was made. It is also found that before the respondent president disclosed the tape recording, she reasonably took time to listen to it herself because the discussion recorded on the tape was regarding the security of the tax office and she wanted to make certain that she did not disclose sensitive security information when she gave the complainant access to listen to it.

12. It is found that, under the circumstance in this case, the respondents did not unduly delay compliance with the complainant's June 3, 2013 request to inspect the tape recordings.

13. Consequently, it is found that the respondents did not violate the FOI Act as alleged by the complainant.

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.



Attorney Tracie C. Brown
as Hearing Officer