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FREEDOM OF INFORMATION

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Seth Wolfe,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2014-141

Director, Finance Department, Town of Clinton;
Finance Department, Town of Clinton; and
Town of Clinton,
Respondent(s)

December 15, 2014

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, January 14, 2015**. 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 January 2, 2015**. 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 January 2, 2015**. **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 January 2, 2015**, 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: Seth Wolfe
John S. Bennet, Esq.

2014-12-15/FIC# 2014-141/Trans/wrbp/TCB//CAL

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Seth Wolfe,

Complainant

against

Docket #FIC 2014-141

Director, Finance Department,
Town of Clinton; Finance Department,
Town of Clinton; and Town of Clinton,

Respondents

December 12, 2014

The above-captioned matter was heard as a contested case on October 23, 2014, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. At the request of the parties, the Commission takes administrative notice of the record and evidence in Docket #FIC2014-278 Seth Wolfe v. Chief, Police Department, Town of Clinton; Police Department, Town of Clinton; and Town of Clinton.

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 e-mail dated February 26, 2014, the complainant made a request to the respondents for the following:
 - a. copies of any and all payroll reports for the Clinton police department for the weeks including August 1 through August 7, 2010, which should include the hours paid to Jim DePietro and Greg Matakaetis; and
 - b. pay stubs for the week of August 1 through August 7, 2010 for officers Jim DePietro and Greg Matakaetis.
3. By e-mail dated and filed on March 11, 2014, the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to comply with his records request.

4. 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.

5. 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, (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.

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

7. It is found that the requested records described in paragraph 2, above, are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

8. It is found that by letter dated October 15, 2014, the respondents provided the complainant with all records responsive to his request.

9. However, at the hearing on this matter, the complainant contended that the respondents' compliance was not prompt and that, therefore, they violated that requirement of the disclosure provisions found in §§1-210(a) and 1-212(a), G.S.

10. 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. Thus, it should take precedence over routine work that has no immediate or pressing deadline.

11. 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.


12. It is found that the complainant had made several requests within a very short period of time, many of which pertained to the same types of records and were overall very similar to each other. It is found that the respondents believed that the requested records had already been provided to the complainant in response to one of those other requests. It is found that the respondents provided the records to the complainant as soon as they realized their error.

13. It is found that, under the facts and circumstances of this case, the respondents did not unduly delay complying with the complainant's request.

14. Accordingly, it is concluded that the respondents did not violate the promptness provisions of §§1-210(a), and 1-212(a), G.S.

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