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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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James Stedronsky,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2014-251

Frank Caruso, Tax Collector, City of Waterbury; and City  
of Waterbury,  
Respondent(s)

February 18, 2015

### 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, March 11, 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 February 27, 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 February 27, 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 February 27, 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: David C. Yale, Esq.  
Gary Roosa, Esq.

2015-02-18/FIC# 2014-251/Trans/wrbp/TCB//PSP

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

James Stedronsky,

Complainant

against

Docket #FIC 2014-251

Frank Caruso, Tax Collector, City of  
Waterbury; and City of Waterbury,

Respondents

February 17, 2015

The above-captioned matter was scheduled to be heard as a contested case on September 23, 2014, at which time the complainant and the respondents failed to appear both claiming miscommunications regarding the scheduling of the hearing. The hearing was rescheduled to October 24, 2015, at which time the complainant and the respondents appeared. For purposes of hearing, the above-captioned matter was consolidated with Docket #FIC2014-250; James Stedronsky v. Michael Le Blanc, Director of Finance, Finance Department, City of Waterbury; Finance Department, City of Waterbury; and City of Waterbury.

Pursuant to an agreement reached between the parties, the hearing was continued to permit further discussions which they thought would lead to a settlement of the complaint in this matter. However, the parties were not able to reach a settlement and the matter was as a contested case on January 21, 2015 at which time the complainant and the respondents appeared.

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 April 1, 2014, the complainant made a request for the following records:
  - a. Copies of all written notices generated pursuant to Connecticut General Statutes §12-163, G.S., allowing the jeopardy collection of taxes as required under subsection (b) of the statute [regarding the property

located at 81-83 Wolcott Street, owned by Barbara Yale with a past bill number of 2011-01-0033294];

- b. An appointment to inspect all written notices for all properties in the City of Waterbury generated pursuant to Connecticut General Statute §12-163(b) during the years of 2011, 2012, and 2013;
- c. Copies of all tax warrants issued by the office of the Tax Collector of the City of Waterbury pursuant to Chapter 204 of the Connecticut General Statutes for the lists of October 1, 2011 and 2012 claiming in excess of \$4000.00;
- d. Copies of all inter-office e-mails, letters, notes, policies, or memoranda to or from the office of the Director of Finance and any other city office concerning the issuance and collection of tax warrants, constables' and marshals' fees, and the collection of delinquent taxes by the Tax Collector from January 1, 2010 to April 1, 2014; and
- e. Copies of all financial disclosure forms, including annual the Statement of Financial Interests, filed with the City of Waterbury in accordance with Section 39.061 of the City's Ethics and Conflict of Interest Ordinance by the state marshals and city constables from January 1, 2010 to April 1, 2014.

3. By letter dated April 25, 2014 and filed on April 28, 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, to the extent they exist, are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

8. With respect to the request described in paragraph 2a, above, it is found that no such records exist.

9. It is found that the request described in paragraph 2b, above, is no longer at issue because the complainant no longer seeks such records and therefore they will not be addressed any further.

10. With respect to the request described in paragraph 2c, above, it is found that the respondents provided the complainant with the records responsive to that request.

11. Notwithstanding the findings in paragraphs 8 through 10, above, the complainant contended at the hearing on this matter that the respondents’ compliance with his request thus far has not been prompt within the meaning of the FOI Act and that his requests described in paragraphs 2d and 2e, above, remain outstanding.

12. 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.

13. 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.

14. It is found that without explanation, other than the fact that the complainant's request remained in the respondents' offices unaddressed for a while, the respondents failed to address the complainant's April 1, 2014 request until October 2014.

15. It is found that the respondents began working to comply with the complainant's request in October 2014, but as of the date of the January 21, 2015 hearing, had not complied with that portion of the complainant's request described in paragraphs 2d and 2e, above.

16. With regard to that portion of the complainant's request described in paragraph 2d, above, for e-mails, it is found that as a result of discussions that took place weeks prior to the January 21, 2015 hearing in this matter, the parties agreed to narrow the request to e-mails of five specific individuals and by using relevant key words, the respondents compiled 6,500 e-mails responsive that portion of the request.

17. It is found that, as of the date of the January 21, 2015 hearing in this matter, approximately one hundred e-mails had been reviewed for applicable exemptions but none of those had been provided to the complainant, again without explanation.

18. It is found that the respondents have yet to address the rest of the records requested (letters, notes, policies, or memoranda) in paragraph 2d, and those requested in paragraph 2e, above.

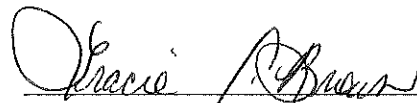
19. It is found that while the respondents apparently intend to comply, they are doing so at an excruciatingly slow rate and without a reasonable explanation.

20. It is found that the respondents' failed to promptly and fully comply with the complainant's request described in paragraphs 2d and 2e, above.

21. Consequently, it is found that the respondents violated the promptness and disclosure 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. Within eight weeks after the issuance of this decision, the respondents shall provide the complainant with a copy of all e-mails described in paragraph 16 of the findings, above, by providing the complainant with no fewer than 900 e-mails a week. Such records shall be provided free of charge.
2. The respondents shall undertake a diligent search for the letters, notes, policies, or memoranda to or from the office of the Director of Finance as described in paragraph 2d, of the findings, above. If the requested records are located, the respondents shall provide a copy of such records to the complainant within 10 weeks from the issuance of the final decision in this matter, free of charge. If no responsive records are found, the respondent shall provide the complainant with an affidavit detailing the scope, duration, and results of the search for such records.
3. The respondents shall undertake a diligent search for the records described in paragraph 2e, of the findings, above. If the requested records are located, the respondents shall provide a copy of such records to the complainant within 12 weeks from the issuance of the final decision in this matter. If no responsive records are found, the respondent shall provide the complainant with an affidavit detailing the scope, duration, and results of the search for such records.
4. Henceforth, the respondents shall strictly comply with the promptness provisions of §1-212, G.S., of the FOI Act.

  
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Attorney Tracie C. Brown  
as Hearing Officer