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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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Mark Dumas,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2015-599

John Harkins, Mayor, Town of Stratford; and Town of Stratford,

Respondent(s)

June 13, 2016

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, July 13, 2016**. 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 July 1, 2016**. 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 July 1, 2016**. **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 **fifteen (15) copies** be filed **ON OR BEFORE July 1, 2016**, 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: Mark Dumas
Bryan L. LeClerc, Esq.

FIC# 2015-599/Trans/wrbp/TCB/VB/2016-06-13

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Mark Dumas,

Complainant

against

Docket #FIC 2015-599

John Harkins, Mayor, Town of
Stratford; and the Town of Stratford,

Respondents

June 9, 2016

The above-captioned matter was heard as a contested case on March 2, 2016, at which time the complainant and the 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 email dated August 14, 2015, the complainant made a request to the respondents to inspect and copy records related to letters of informed consent waiving any conflict of interest for any lawyer or law firm seeking to represent the town of Stratford where a conflict of interest actually existed.
3. By letter dated September 11, 2015 and filed on September 14, 2015, the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information ("FOI") Act by denying his request. The complainant requested the imposition of a civil penalty against the respondent mayor.
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 are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

8. It is found that the respondents responded to the complainant’s request on September 17, 2015 acknowledging his request and then again on September 23, 2015, asking that he limit his request to either a specific period of time and/or a specific matter or type of matter.

9. It is found that on November 19, 2015, the respondents provided the complainant with a copy of three records, totaling six pages, in response to his request.

10. At the hearing on this matter the complainant asserted that he was not provided with the records promptly within the meaning of §§1-210 and 1-212, G.S.

11. It is found that the three records that were provided to the complainant were not just the only records responsive to the complainant’s specific request but were the only records of any letters related to waivers of any conflict of interest the respondents maintained. It is found that such records were maintained by the legal assistant to the Town Attorney in a single file readily accessible to her.

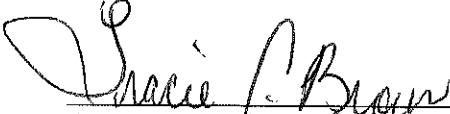
12. It is found that there was no justification for the three month delay in providing the complainant with six pages of the only records the respondents maintained that related to his request.

13. It is found, based on the facts and circumstances of this case, that the respondents failed to promptly comply with the complainant’s request within the meaning of §§1-210 and 1-212, G.S.

14. The Commission declines to consider the imposition of a civil penalty against the named respondent in this case.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. Henceforth, the respondents shall strictly comply with the promptness provisions of §§1-210(a) and 1-212(a), G.S.



Attorney Tracie C. Brown
as Hearing Officer