

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Nadine Blakely,

Complainant

against

Docket #FIC 2017-0354

Commissioner, State of Connecticut,  
Department of Administrative Services; and  
State of Connecticut, Department of  
Administrative Services,

Respondents

May 23, 2018

The above-captioned matter was heard as a contested case on August 31, 2017, at which time the complainant and the respondents appeared 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)(A), G.S.
2. By letter of complaint filed June 20, 2017, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by denying her request for certain public records.
3. It is found that the complainant made a May 22, 2017 request to the Connecticut Airport Authority for “any and all non-privileged documents” pertaining to her fall at Bradley International Airport on February 1, 2017.
4. It is found that the Airport Authority acknowledged the request on June 2, 2017, and provided responsive records on June 14, 2017. The Airport Authority withheld the security video from the records provided to the complainant, on the grounds that disclosure would constitute a safety risk to persons at the airport, pursuant to § 1-210(b)(19), G.S.
5. 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.

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

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.

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

8. It is concluded that the requested records are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

9. Section 1-210(b)(19), G.S., provides that disclosure is not required of:

Records when there are reasonable grounds to believe disclosure may result in a safety risk, including the risk of harm to any person, any government-owned or leased institution or facility or any fixture or appurtenance and equipment attached to, or contained in, such institution or facility, except that such records shall be disclosed to a law enforcement agency upon the request of the law enforcement agency. Such reasonable grounds shall be determined (A) (i) by the Commissioner of Administrative Services, after consultation with the chief executive officer of an executive branch state agency, with respect to records concerning such agency ....

10. Section 1-210(d), G.S., provides in relevant part:

Whenever a public agency, except the Judicial Department or Legislative Department, receives a request from any person for

disclosure of any records described in subdivision (19) of subsection (b) of this section under the Freedom of Information Act, the public agency shall promptly notify the Commissioner of Administrative Services or the Commissioner of Emergency Services and Public Protection, as applicable, of such request, in the manner prescribed by such commissioner, before complying with the request as required by the Freedom of Information Act and for information related to a water company, as defined in section 25-32a, the public agency shall promptly notify the water company before complying with the request as required by the Freedom of Information Act. If the commissioner, after consultation with the chief executive officer of the applicable agency or after consultation with the chief executive officer of the applicable water company for information related to a water company, as defined in section 25-32a, believes the requested record is exempt from disclosure pursuant to subdivision (19) of subsection (b) of this section, the commissioner may direct the agency to withhold such record from such person.

11. It is found that the airport director of public safety, concerned that release of the requested security video would result in a safety risk, notified the respondent Commissioner of Administrative Services.

12. It is found that the respondents, after visiting the airport and consulting with the airport's director of public safety and airport staff, determined that the requested security video was exempt from disclosure pursuant to §1-210(b)(19), G.S., and directed the airport to withhold the record.

13. Specifically, the respondent Commissioner of Administrative Services noted in her July 18, 2017 letter to the Airport Authority:

The video records display angles or fields of view that indicate what the security system of the airport can see and record. Our staff noted that the deployment and movement of security personnel could be ascertained from viewing the video in question. Procedures and protocols concerning the searching and examination of passenger baggage and baggage handling could also be observed and noted by a careful viewer. All of these observations would provide useful information to anyone planning to commit an act of terror or to otherwise commit a criminal act while avoiding detection or apprehension.

14. It is concluded that the respondent Commissioner did have reasonable grounds to believe that disclosure of the requested records "may result in a safety risk, including the risk of harm to any person," pursuant to §1-210(b)(19), G.S. The Commission defers to the safety risk assessment performed by the respondents unless the

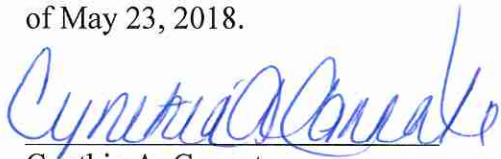
party seeking disclosure establishes that the determination was frivolous, patently unfounded or in bad faith. In this case, the respondent's determination was established by "a sufficiently detailed record [that] reflect[ed] the reasons why ... [the] exemption applies to the materials requested." Director, Department of Information Technology v. Freedom of Information Commission, 274 Conn. 179, 191-192 (2005). The respondents satisfied their burden of proof with "more than conclusory language, generalized allegations or mere arguments of counsel." Id. at 191.

15. It is therefore concluded that the respondents did not violate the FOI Act as alleged.

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

1. The complaint is hereby dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of May 23, 2018.



Cynthia A. Cannata  
Acting Clerk of the Commission

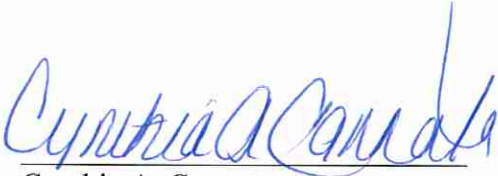
PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

**NADINE BLAKELY**, c/o Ryan McKeen, 437 Naubuc Avenue, Suite 107, Glastonbury, CT 06033

**COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF ADMINISTRATIVE SERVICES; AND STATE OF CONNECTICUT, DEPARTMENT OF ADMINISTRATIVE SERVICES**, c/o Attorney Jeffrey R. Beckham, 450 Columbus Boulevard, Suite 1501, Hartford, CT 06103

Cc: Attorney Paul K. Pernerewski, Jr., Bradley International Airport, Terminal A, 3rd Floor, Windsor Locks, CT 06096



Cynthia A. Cannata  
Acting Clerk of the Commission