

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Marcus Rice,

Complainant

Docket # FIC 2017-0659

against

Director of Human Resources, Town of  
East Hartford; Department of Human  
Resources, Town of East Hartford; Chief,  
Fire Department, Town of East Hartford;  
Fire Department, Town of East Hartford;  
and Town of East Hartford,

Respondents

September 26, 2018

The above-captioned matter was heard as a contested case on January 22, 2018, at which time the complainant and 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 letter dated October 3, 2017, the complainant requested from the respondents copies of all records related to the investigations of his February 17<sup>th</sup> and June 2<sup>nd</sup> complaints.
3. It is found that, on October 3, 2017, the respondents acknowledged the request described in paragraph 2, above. It is further found that on October 5, 2017, the respondent chief met with the complainant and provided him with a memorandum regarding the status of his complaints.
4. By email filed November 2, 2017, the the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by not providing all requested records, as described in paragraph 2, above.
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 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....

7. 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....”

8. It is found that, to the extent the respondents maintain the requested records, such records are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

9. It is found that the respondents’ counsel conducted an investigation of the complainant’s February 17 complaint. It is found that the respondents provided the complainant with copies of all investigation records related to that complaint on January 16, 2018.<sup>1</sup> At the hearing in this matter, the complainant testified that he was satisfied with respect to the provision of the February 17 investigation records. Accordingly, such records will not be further addressed herein.

10. It is found that the respondents did not provide any responsive records to the complainant with respect to the complainant’s June 2 complaint. At the hearing in this matter, the complainant testified that what he was seeking with respect to the June 2 complaint was any investigator’s notes, lists of questions, witness statements, and summary.

11. It is found that, in response to the complainant’s June 2 complaint, no investigation was conducted. Rather, such complaint was treated as a disciplinary matter by the respondent

---

<sup>1</sup> The respondent chief testified that Garrity warnings had been issued, but could not recall whether they had been oral or written. At the hearing, the chief pledged to double-check for the warnings, and, if they were written, to provide copies to the complainant.

chief, who resolved the matter with a disciplinary letter placed in another employee's personnel file. It is found that the respondent chief discarded any informal notes he might have kept upon the issuance of the disciplinary letter, as is his practice.

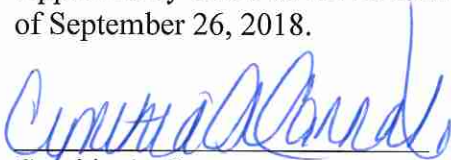
12. At the hearing in this matter, the respondents contended that they have provided the complainant with all existing responsive records, except for the disciplinary letter, and further, that they did not believe the complainant's request encompassed the disciplinary letter. It is found that such letter is arguably within the scope of the complainant's October 3, 2017 request. However, it is also found that, at the hearing in this matter, the complainant did not pursue access to such letter at any time. Rather, the complainant was seeking access to the investigation of this June 2 complaint.

13. Based on the facts and circumstances of this matter, it is concluded that the respondents did not violate the FOI Act, as alleged in the complaint.

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

1. The complaint is dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of September 26, 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:

**MARCUS RICE**, 141 Mallard Drive, East Hartford, CT 06118

**DIRECTOR OF HUMAN RESOURCES, TOWN OF EAST HARTFORD;  
DEPARTMENT OF HUMAN RESOURCES, TOWN OF EAST HARTFORD; CHIEF,  
FIRE DEPARTMENT, TOWN OF EAST HARTFORD; FIRE DEPARTMENT,  
TOWN OF EAST HARTFORD; AND TOWN OF EAST HARTFORD**, c/o Attorney  
Scott R. Chadwick, Chadwick & Stone, LLP, 111 Founders Plaza, Suite 1702, East Hartford,  
CT 06108



Cynthia A. Cannata  
Acting Clerk of the Commission