

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Stephanie Borise and  
Stamford Advocate,

Complainants

Docket # FIC 2018-0255

against

Mayor, City of Stamford;  
Director of Human Resources,  
City of Stamford; and City of Stamford,

Respondents

February 13, 2019

The above-captioned matter was heard as a contested case on July 24, 2018, at which time the complainants and respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

After the hearing in this matter, the complainants filed, without objection, one after-filed exhibit which was marked as follows: Complainants' Exhibit A: Email, dated May 29, 2018, from Stephanie Borise to Elizabeth Carlson.

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 January 15, 2018, the complainants requested the following from the respondents:

[A]n Excel file – as the city has shared in previous years – that lists 2017 total earnings for all city and school employees, including job titles, broken down by base pay and overtime, and other pay, such as extra-duty pay or retro pay, as relevant. (“January 15<sup>th</sup> request”).

3. It is found that by email dated January 16, 2018, the respondents informed the complainants that they “can work with payroll to get the information for individuals on the City’s payroll. You will have to make a similar request for the Board of Education. We are in the process of preparing for year end and it will take some time before this information is available. We will try to have this information to you as quickly as possible.”

4. It is found that on April 25, 2018, the complainants emailed the respondents regarding the status of their January 15<sup>th</sup> request. It is found that the respondents immediately responded and informed the complainants that “the list was going under one last review to check for any errors, which should be completed in the next few days.”

5. It is found that on May 30, 2018, subsequent to the filing of the complaint in this matter, as described in paragraph 6, below, the Mayor’s office issued a press release and a list of city employee earnings. It is found that the respondents provided the complainants with a copy of such list, which was responsive to their January 15<sup>th</sup> request.

6. By email filed May 17, 2018, the complainants appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to promptly provide them with records responsive to their request described in paragraph 2, above.

7. Section 1-200(5), G.S., defines “public records or files” as:

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.

8. 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 . . . (3) receive a copy of such records in accordance with section 1-212.

9. Section 1-211(a), G.S., provides that:

Any public agency which maintains public records in a computer storage system shall provide, to any person making a request pursuant to the Freedom of Information Act, a copy of any nonexempt data contained in such records, properly identified, on paper, disk, tape or any other electronic storage device or medium requested by the person, including an electronic copy sent to the electronic mail address of the person making such request, if the agency can reasonably make any such copy or have any such copy made....

10. Section 1-212(a), G.S., provides in relevant part that “any person applying in writing

shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

11. It is found that the records requested by the complainants are public records and must be disclosed in accordance with §§1-200(5), 1-210(a), 1-211(a) and 1-212(a), G.S., to the extent such records exist.

12. At the hearing, the respondents testified that, although not required to create a document in response to a records request,<sup>1</sup> the respondents, in an effort to be transparent, created a document with the level of detail and in the format requested by the complainants in their January 15<sup>th</sup> request. The respondents testified that the compilation of the requested data is extremely time consuming and, among other requirements, requires sorting through and isolating anomalies, eliminating redundancies, and receiving input from the human resource departments for the City and Stamford Board of Education, respectively, which are separate public agencies.

13. It is found that the FOI Act does not require public agencies to create records in response to a records request, including the complainants' January 15<sup>th</sup> request.

14. Based on the particular facts and circumstances of this case, it is found that at the time of the January 15<sup>th</sup> request, the respondents did not maintain a document containing the level of detail and in the format requested by the complainants.

15. It is concluded, therefore, that the respondents did not violate the disclosure provisions of the FOI Act.

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.

Approved by Order of the Freedom of Information Commission at its regular meeting of February 13, 2019.



Cynthia A. Cannata  
Acting Clerk of the Commission

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<sup>1</sup> The respondents also contended that to the extent they are required to create a document, the document at issue is exempt from disclosure as a preliminary draft. However, in light of the conclusion in paragraph 15, above, such argument shall not be further addressed herein.

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:

**STEPHANIE BORISE AND STAMFORD ADVOCATE**, 1055 Washington Boulevard,  
Stamford, CT 06901

**MAYOR, CITY OF STAMFORD; DIRECTOR OF HUMAN RESOURCES, CITY OF STAMFORD; AND CITY OF STAMFORD**, c/o Attorney Burt Rosenberg, P.O. Box  
10152, Stamford, CT 06901



Cynthia A. Cannata  
Acting Clerk of the Commission