

Freedom of Information Commission
of the State of Connecticut

In the Matter of a Complaint by)
Josephine M. Brown, Complainant) Report of Hearing Officer
against) Docket #FIC 76-183
State of Connecticut; State Employees')
Retirement Commission; and State)
Medical Examining Board,)
Respondents) December 20 , 1976

The above captioned matter was heard as a contested case on November 15, 1976, 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:

1. The respondents are public agencies as defined in §1(a) of P.A. 75-342.
2. By letter dated September 29, 1976, the complainant requested from the respondent board a certified copy of its proceedings of February 11, 1976 and September 9, 1976 relative to her disability retirement applications.
3. By same letter dated September 29, 1976, the complainant further requested a copy of the minutes of the February 11, 1976 and September 9, 1976 meetings of the respondent commission in which her applications were considered and orders relative thereto were adopted.
4. By letter dated October 8, 1976, the respondent board tendered a certified copy of portions of its January 21, 1976 proceedings limited to the complainant's testimony before the respondent board.
5. The respondent commission by same letter dated October 8, 1976, has tendered certified copies of portions of the requested February 11, 1976 and September 9, 1976 minutes of the respondent commission. These minutes simply contain the votes of each member of the respondent commission upon the sole issue of whether or not to grant her applications for disability retirement.

6. By letter of complaint filed with this Commission on October 22, 1976, the complainant alleged that the respondents violated P.A. 75-342 by not tendering all of the records requested.

7. The respondents offered no evidence that all of the records requested were tendered to the complainant.

8. The respondents contend, however, that the requested records are now exempt from disclosure pursuant to §2(b)(3) as records pertaining to pending claims and litigation.

9. It is found that the requested documents were not records pertaining to pending claims and litigation at the time of the complainant's September 29, 1976 request.

10. It is therefore found that the requested documents are not exempt from disclosure within the meaning of §2(b)(3) of P.A. 75-342.

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

1. The respondent board and commission shall forthwith conduct a diligent search of its records to ascertain what documents, in addition to those already tendered, are in their custody and possession relating to the complainant's September 29, 1976 requests.

2. Upon completion of the search described in paragraph 1 of this Order, the respondent board and commission shall forthwith provide certified copies of all records not yet tendered to the complainant pursuant to her requests, in accordance with the provisions of §5 of P.A. 75-342.

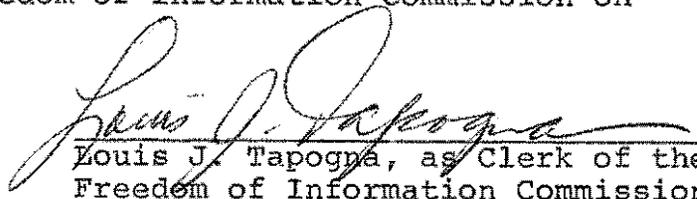
3. If as a result of the search described in paragraph 1 of this Order, the respondents find that no such documents are in their custody or possession, the respondents shall forthwith provide the complainant with an affidavit setting forth that there are no such documents in their custody and possession in addition to those already tendered; the names of the individuals who conducted such searches and the efforts made in complying with this Order.



Commissioner Judith A. Lahey

as Hearing Officer

Approved by order of the Freedom of Information Commission on January 12, 1977.



Louis J. Tapogna, as Clerk of the
Freedom of Information Commission