

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Dorothy Pagano,

FINAL DECISION

Complainant

Docket #FIC81-201

against

August 30, 1982

Connecticut Real Estate Commission
of the State of Connecticut,

Respondent

The above captioned matter was heard as a contested case on May 3, 1982 at which time the complainant and the respondent appeared and presented testimony, exhibits, and argument on the complaint. After consideration of the entire record the following facts are found:

1. The respondent is a public agency within the meaning of § 1-18a(a), G.S.
2. By letter dated December 4, 1981 the complainant made a request of the respondent for copies of all of the respondent's records or files in connection with complaints made against one Charles Shimkus, d/b/a Shimkus Agency.
3. By letter of complaint filed with the Commission on December 17, 1981, the complainant alleged that no response had been received to her December 4, 1981 request.
4. The respondent claims that it maintains files on a Charles M. Shimkus and a Charles J. Shimkus and that it did not know which files the complainant was requesting.
5. At hearing, the complainant, through her counsel, stated that she was interested in the files of Charles J. Shimkus.
6. The respondent, however, failed to prove by any credible evidence that it made any attempt to determine which files were being requested.
7. The respondent also claims that the requested records are exempt from disclosure pursuant to § 1-19(b)(4) because the complainant is a defendant in a lawsuit instituted by Charles Shimkus.
8. The respondent is not a party to the litigation involving the complainant and Mr. Shimkus.
9. The respondent failed to prove by any credible evidence that the requested records pertain to strategy or negotiations with respect to litigation involving the respondent and Mr. Shimkus.
10. It is concluded that the requested records are not exempted from disclosure by § 1-19(b)(4), G.S.

11. The respondent also claims that disclosure of the requested records would constitute an invasion of the personal privacy of Charles Shimkus.

12. It is found, however, that the respondent failed to prove by any credible evidence that the requested records were personnel or medical or similar files within the meaning of § 1-19(b)(2), G.S.

13. It is further found that disclosure of the requested records would not constitute an invasion of the personal privacy of Charles Shimkus.

14. The respondent also claims that the complainant's request was overly broad, and that compliance with the request would result in the disclosure of records which would be of no use to the complainant.

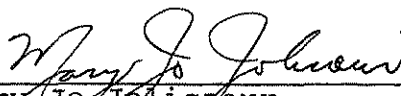
15. Unless otherwise provided by federal law or state statute, all records maintained or kept on file by the respondent are public records subject to disclosure pursuant to §§ 1-15 and 1-19, G.S., regardless of their usefulness to the complainant.

16. It is concluded that the failure of the respondent to provide the complainant with copies of the records or files described in paragraph 2, above, constituted a violation of §§ 1-15 and 1-19, G.S.

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

1. The respondent shall forthwith provide the complainant with copies of the records described more fully in paragraph 2 of the findings above.

Approved by order of the Freedom of Information Commission at its regular meeting of August 25, 1982.



Mary Jo Jolicœur
Clerk of the Commission