

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Marilyn Vitale,

FINAL DECISION

Complainant

Docket #FIC84-34

against

July 11, 1984

The Finance Director of the Town
of East Haven and the Mayor of the
Town of East Haven,

Respondents

The above captioned matter was heard as a contested case on April 26, 1984 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 within the meaning of §1-18a(a), G.S.
2. On February 27, 1984 the complainant made a request at the office of the respondent finance director for access to inspect certain records relating to bid specifications for the town's 1982-83 heating oil contract.
3. The complainant was told by the respondent director's secretary that pursuant to a policy recently instituted by the respondent mayor, such access was prohibited, but that upon written request she would be given copies of the documents in question.
4. The complainant submitted a written request for records on February 28, 1984, indicating that she would pick up the records on February 29, 1984.
5. By letter dated March 1, 1984 the respondent director informed the complainant that his office was very busy and suggested that the complainant contact the office on March 16, 1984 for the records, but that if the records were ready earlier she would be so informed.

6. By letter dated March 4, 1984 and filed with the Commission on March 7, 1984 the complainant appealed the denial of her request to inspect documents.

7. Also by letter dated March 4, 1984 the complainant informed the respondent director of her objections to the policy against inspection of documents and to his response to her request for records.

8. By letter dated March 7, 1984 the respondent director informed the complainant that in accordance with a new directive from the respondent mayor, files were open for review. The respondent director invited the complainant to arrange a "prompt appointment" to inspect the requested records.

9. By the time the complainant received the March 7, 1984 letter she had already obtained the desired information from other sources. Upon inquiry by the finance office, however, she presented herself on April 7, 1984 to inspect the records, but was told that the secretary in charge of providing the documents was at lunch. Upon returning at 4:30 the complainant was told that no one was available to sit with her while she reviewed the documents. Upon returning the next day the complainant was able to review the documents.

10. It is found that the directive from the respondent mayor instituting the "no inspection" policy was a reaction to what the respondent finance director felt was an unreasonable number of requests to inspect records, especially from the media. The respondents were concerned with lessening the burden on the finance office with respect to such requests, and with avoiding problems such as misplaced or stolen records.

11. The respondent acknowledged at hearing that the option of inspecting or receiving copies of public records provided by §1-19(a), G.S. belongs to the public and not to the agency. The respondents have, as stated in paragraph 8, above, rescinded the policy against inspection of public records.

12. The respondents claim that they should have been provided an opportunity to respond to the complainant's March 4, 1984 letter to the respondent finance director in which the complainant indicated that she was only interested in inspection, not copies. It is found, however, that a denial of access to inspect occurred on February 27, 1984 upon the denial of the complainant's original request.

13. It is concluded that the respondents violated §1-19(a), G.S. when on February 27, 1984 they denied the complainant access to inspect the requested records.

14. It is also found that the respondent director's indication on March 1, 1984 that the requested records would not be made available until approximately March 16, 1984 constituted a denial of prompt access to public records within the meaning of §§1-15 and 1-19(a), G.S.

15. It is found, however, that the circumstances of the complainant's April 7, 1984 inquiry do not indicate either an intent to deny prompt access nor an actual denial thereof.

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

1. The respondents shall henceforth act in strict compliance with the requirements of §§1-15 and 1-19(a), G.S. regarding prompt access to inspect or copy public records.

Approved by order of the Freedom of Information Commission at its regular meeting of July 11, 1984.



Mary Jo Jolicoeur
Clerk of the Commission