

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by  
C. J. Mozzochi,

FINAL DECISION

Complainant

Docket #FIC84-51

against

September 12, 1984

Town Manager of the Town of  
Glastonbury,

Respondent

The above captioned matter was heard as a contested case on May 24, 1984 at which time the complainant and the respondent appeared and presented testimony, exhibits and argument on the complaint. Heard in conjunction with the above matter was FIC 84-19 C. J. Mozzochi v. Town Manager of the Town of Glastonbury.

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 March 14, 1984 the complainant made a request of the respondent for copies of "any and all documentation. . . which shows expenditure of Town funds on the town buildings at 2108 and 2155 Main Street during the period July 1, 1981 through and including March 1, 1984; provided that each individual expense is in excess of \$100.00." The request also indicated that "[y]ou may omit any documentation you have sent to me to date on this matter."

3. By letter dated March 23, 1984 the respondent asked the complainant, with respect to the March 14, 1984 request, to "[p]lease specify what documents you want, what you want excluded and for what period . . . We complied with your earlier request, and if you have a new request for a different time period, we would be happy to honor it."

4. By letter of complaint filed with the Commission on March 26, 1984 the complainant alleged that the respondent had not complied with the March 14, 1984 request.

5. At hearing, the hearing officer revealed that she was a former resident of Glastonbury, and asked if that fact concerned either of the parties. Both parties indicated that it was not a matter of concern.

6. By letter dated May 24, 1984, addressed to the executive director of the Commission, the complainant indicated that had he known before the hearing that the hearing officer had once lived in Glastonbury he would have asked her to disqualify herself from the hearing. The complainant asked that he be granted a new hearing by a commissioner who had never lived in Glastonbury.

7. By letter dated May 25, 1984 the complainant, claiming that the hearing officer was prejudiced against him, withdrew the above complaint as well as the complaint in FIC 84-19.

8. By letter dated May 26, 1984 the complainant withdrew his request for a new hearing in FIC 84-19 and 84-51.

9. The respondent alleged that it had made every effort to comply with the complainant's requests and that any omissions were due to the respondent's misunderstanding of the complainant's requests or to oversight. The respondent requested that the Commission impose a civil penalty against the complainant pursuant §1-21i(b), G.S. on the ground that the complainant's appeal had been taken frivolously, without reasonable grounds and solely for the purpose of harassing the respondent.

10. Although the complainant does not choose to pursue his complaint against the respondent, the Commission retains jurisdiction pursuant to §1-21i(b), G.S. to determine the merits of the respondent's request for the imposition of a civil penalty against the complainant.

11. The following facts are pertinent to the respondent's claim with respect to the imposition of a civil penalty:

a) On August 19, 1983 the complainant made a request of the respondent for copies of "any and all documentation in the Town's possession that would indicate any and all expenditure of taxpayer's money . . . on any property owned by the Town within a one-half mile radius of your present office; regardless of whether the expenditure was for a renovation, a replacement or new equipment for the time interval July 1, 1981 through and including the date of your compliance with my request."

b) The complainant subsequently filed a complaint with the Commission alleging that the respondent had not complied with his August 19 request. A hearing on the complainant's complaint was held on November 17, 1983. On November 17, 1983 a stipulated agreement was entered into by the parties, the complaint was withdrawn by the complainant and thereafter dismissed by the Commission.

c) By letter dated December 7, 1983 the respondent, pursuant to the November 17, 1984 stipulation, forwarded to the complainant a packet of documents totaling 620 pages.

d) By letter dated December 11, 1983 the complainant indicated to the respondent that he had reviewed the packet of materials and needed, in addition, change order number 30 and any and all financial documentation concerning the new police department antenna system.

e) By letter dated December 16, 1983 the respondent forwarded to the complainant the documents requested on December 11, 1983.

f) By a second letter dated December 16, 1983 the complainant requested copies of any and all financial documentation concerning the sandblasting of the Academy School complex and old town hall.

g) By letter dated December 22, 1983 the respondent indicated to the complainant that the information was being retrieved and would be sent to him as soon as it was gathered. The respondent also noted that the sandblasting was a maintenance item, not part of the contract documents previously sent to the complainant. The information was forwarded on January 5, 1984.

h) By letters dated December 28, 1983 and January 15, 1984 the complainant wrote to the Commission alleging that the respondent had "deliberately tried to circumvent" the stipulation reached on November 17, 1983, and requested a hearing on the matter.

i) The complainant's earlier complaint having been dismissed upon agreement of the parties, the Commission declined to consider further evidence on the complaint, and advised the complainant that another complaint would be necessary if he wished to pursue the matter.

12. At hearing, the complainant alleged that the respondent had deliberately omitted information from the packet forwarded to him in accordance with the November 17, 1983 stipulation. The complainant alleged, for example, that had he not had a specific interest in such matters, he would never have noticed the new antenna system, an item which was not included in the original packet.

13. The Commission finds that the respondent's responses to the complainant's requests were made in good faith and represent the respondent's best efforts to comply with the complainant's requests. The complainant was unable to point to a single instance in which the respondent refused, upon specific demand, to provide copies of public records. The Commission notes that the respondent, in addition to producing requested records, produced written responses to inquiries or statements by the complainant which were not required by the Freedom of Information Act.

14. The Commission also finds that the absence of a basis for the complainant's complaint as well as the nature of correspondence directed to the respondent indicate that the complainant's appeal was taken frivolously, without reasonable grounds and solely for the purpose of harassing the respondent.

15. The complainant claims that he filed this appeal with the Commission upon the advice of his attorney.

16. It is found that the withdrawal of the complainant's complaint does not affect the respondent's request for the imposition of a civil penalty pursuant to §1-21i(b), G.S.

17. It is also found that the complainant's representation that he acted upon the advice of an attorney does not preclude the imposition of a civil penalty pursuant to §1-21i(b), G.S.

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

1. Pursuant to §1-21i(b), G.S., the complainant, C. J. Mozzochi, is hereby ordered to appear before the designated Hearing Officer in the above matter on in the Freedom of Information Hearing Room, 30 Trinity Street, Hartford, Conn. for the purpose of showing cause why a civil penalty ought not to be imposed.

Approved by order of the Freedom of Information Commission at its regular meeting of September 12, 1984.

  
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Mary Jo Jolicoeur  
Clerk of the Commission