

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
John E. Julian, First Selectman
Town of Stafford

FINAL DECISION

Complainant

Docket #FIC 84-126

against

Freedom of Information Commission,
State of Connecticut

October 10, 1984

Respondent

The above captioned matter was heard as a contested case on September 13, 1984 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. The complainant filed an appeal with the Commission by letter postmarked July 13, 1984, in which the complainant alleged:

(a) that a written request was made on February 22, 1984 to the respondent asking for clarification of a prior complaint that had been filed with the respondent against the complainant; and,

(b) that the respondent withheld from the complainant a public record received by the respondent on February 17, 1984 from Andrew Urban.

3. It is found that the respondent mailed the complainant a "Notice of Hearing and Order to Show Cause" for "Docket #FIC84-2" on February 14, 1984 with an attached copy of the complaint by Andrew B. Urban against the Town of Stafford and the Board of Selectmen of the Town of Stafford.

4. It is found that the complaint in Docket #FIC84-2 consisted of two letters sent to the Commission by Andrew Urban. The first letter, dated January 9, 1984, stated, in part:

"COMPLAINT: that [at a January 3, 1984 meeting] the Selectmen acted in violation of the Freedom of Information Act regarding this matter [well contaminations]: 1) discussing an item not on the agenda 2) not taking a vote to place this item on the agenda 3) taking action on a matter which was not on the agenda 4) confusing and misleading me regarding discussion of the matter in question."

The second letter, dated January 18, 1984, added that Mr. Urban was not notified of a January 12, 1984 Board of Selectmen meeting concerning well contaminations after he had informed the Board that he wanted to be informed of any business concerning well contaminations.

5. In his letter of February 22, 1984, the complainant wrote:

"The Town of Stafford, Board of Selectmen, is in receipt of the Notice of Hearing and Order to Show Cause concerning Docket #FIC84-2, on the complaint filed with the Commission by Andrew B. Urban, P.O. Box 275, Stafford, CT 06075, (copy of Docket #FIC84-2).

"I have attempted to review this paperwork and I would appreciate some assistance. It is important and necessary for me to ascertain what is the exact complaint that is contained in this order. The various attachments are extremely wordy and confusing. I would appreciate it if you could indicate exactly what the complaint is so that a proper response on the Town's behalf could be developed."

6. It is found that the complainant's letter of February 22, 1984 sought assistance in interpreting the legal effect of Mr. Urban's previous complaint against the complainant.

7. It is found that in a letter dated March 2, 1984 the complainant wrote to the respondent:

"...I have not been able to ascertain the charges which Mr. Urban has filed, or the exact nature of the alleged FOI violation.

"I would appreciate your assistance in deciphering this complaint...."

8. It is found that on March 5, 1984, Constance Chambers, Assistant General Counsel to the respondent, wrote to the complainant:

"The Commission has received your letters dated February 22, 1984 and March 2, 1984 in which you ask the help of Chairman Lahey "in deciphering this complaint". The Chairman is prohibited by statute from engaging in ex parte communications regarding matters pending before the Commission. Therefore I am writing you to suggest a couple of ways you might dissipate your confusion regarding the complaint.

"1. You may wish to carefully study the Order to Show Cause in order to understand its significance.

"2. You may wish to come to Hartford to listen to a tape recording of the sworn testimony given by Mr. Urban February 28, 1984.

"3. You may wish to hire an attorney.

"As a Commission attorney I am prohibited from participating in ex parte communications also so that I cannot act as your attorney in interpreting for you the nature of the complaint which has been filed by Mr. Urban. However, I am able to fill you in on Commission procedures. In this regard I am enclosing a copy of the Citizens' Guide for your further information."

9. It is found that on March 9, 1984 the complainant wrote to Constance Chambers:

"Thank you for your letter of March 5, 1984, which responded to the Town of Stafford's previous requests for information. Your letter was very helpful in understanding why the Commission could not help us "decipher" the complaint received (Docket #FIC84-2)."

10. It is concluded that the complainant's February 22, 1984 letter to the respondent did not constitute a request for a copy of a public record, pursuant to §§1-15 and 1-19(a), G.S., but rather constituted a request for assistance in explaining the documents which had been received by the complainant.

11. It is found that the complainant's appeal was filed beyond the period of thirty days after the period of four business days that would be deemed to be a denial of the alleged request pursuant to §§1-21i(a) and (b), G.S.

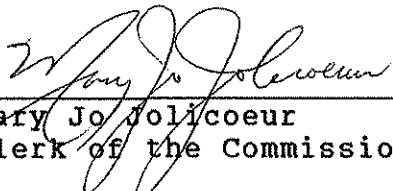
12. It is therefore concluded that the complainant's appeal was not within the statutory jurisdiction of the Commission pursuant to §1-21i(b), G.S.

13. It is noted that by letter dated June 15, 1984 the complainant requested that the respondent provide "a copy of all of the documents and correspondence which relate to Docket # FIC 84-2"; that the requested documents were mailed to the complainant by the respondent on June 19, 1984; and that the February 17, 1984 letter referred to in paragraph 2 above was among the documents provided to the complainant at that time.

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 October 10, 1984.



Mary Jo Jolicoeur
Clerk of the Commission