

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Eric Handel,

Complainant

against

Docket #FIC 2016-0458

First Selectman, Town of Portland;  
and Town of Portland;

Respondents

February 22, 2017

The above-captioned matter was heard as a contested case on September 9, 2016, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. For purposes of hearing, the matter was consolidated with Docket #FIC 2016-0457, Eric Handel v. First Selectman, Town of Portland; Town of Portland; Superintendent of Schools, Portland Public Schools; and Portland Public Schools.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. It is found that, by letter dated June 16, 2016, the complainant sent the First Selectwoman for the Town of Portland (the "First Selectwoman") the following multipart request for access to and copies of records, as follows:
  - a. all documentation, whether on file in the selectman's office, the police department, or your private notes, relating to me, my minor son, or his mother, including:
    - i. police involvement or statements made in connection with the pickup of my son on September 25, 2015 at the Gildersleeve School;
    - ii. police invasion of the meeting about my son between me and the school

- social worker at the Gildersleeve school;
  - iii. familiarity of police with the contents of my son's confidential record at the Gildersleeve school; and
  - iv. all statements or reports made by Aronson or Victoria Lanier, the GAL, to the police.
- b. Please also provide:
- i. any and all notes relating to the two misconduct complaints made by me to you against Portland police officers, including action taken;
  - ii. all complaints made against me or which contain my name, particularly if made by my child's mother Jerri Aronson, Jerri Alliton or other alias; and
  - iii. any documentation (or reference to online sources) which outlines your role, duties, and responsibilities as Chief of Police for the Town of Portland.
- c. I also request all information on file in the Department of Public Works, Wetlands department, Building Department, Board of Education, and any outside authorities or assigns [sic] which may have performed work for the Town of Portland, relating to Hedstrom's ponds and the high school site and/or complaints relating to water issues since the start of the high school expansion project. Please provide:
- i. any information relating to my complaints relating to pollution of historic Hedstrom's ponds;
  - ii. any information relating to any complaints relating to the diversion of water to or from Hedstrom's ponds or the high school site;
  - iii. documentation of ALL repair work done outside of the high school property relating to flooding, outflow, sediment, and "dry well" issues since

- the beginning of the high school expansion project; and
- iv. copies of reports cited by Karl Johnson at the Board of Education meeting referring to tests done on soil or water from the high school site indicating the presence of fine sediment.  
(Emphasis in original).

3. It is found that, by letter dated June 22, 2016, the First Selectwoman acknowledged the complainant's request, indicating that the respondents would contact the complainant with a status on his request as soon as they were able to do so.

4. By email dated and filed June 22, 2016, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information Act ("FOI") by failing to provide him with access to, and copies of, records.

5. Section 1-200(5), G.S., provides:

"Public records or files" means any recorded data or information relating to the conduct of the public's business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

6. Section 1-210(a), G.S., provides in relevant part that:

Except as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to (1) inspect such records promptly during regular office or business hours, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212.

7. Section 1-212(a), G.S., provides in relevant part that "[a]ny person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record."

8. It is found that the requested records are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

9. Initially, it is found that the First Selectwoman is also the Chief of Police in the Town of Portland. In this respect, it is found that, while the First Selectwoman holds the title of "Chief of Police," she is not a certified, sworn police officer and, as such, is referred to as a "Civilian Chief of Police."

10. It is found that, by letter dated July 13, 2016, the First Selectwoman provided the complainant with a letter listing all of the dates from her appointment book that concerned the complainant's appointments and/or appearances at her office. It is further found that the First Selectwoman also provided the complainant with a list of all of her personal notes and/or telephone logs that concerned the complainant in any way.

11. It is further found that, in the July 13<sup>th</sup> letter, the First Selectwoman stated that there were no complaints on file with her office filed by anyone, including the mother of his child.

12. It is further found that, in the July 13<sup>th</sup> letter, the First Selectwoman directed the complainant to a website containing documentation which outlined her role as the Civilian Chief of Police.

13. It is further found that, in the July 13<sup>th</sup> letter, the First Selectwoman explained that she had contacted the Board of Education, Building Department, Wetlands Department and Public Works Department to inquire about records responsive to the complainant's request and was able to determine the following:

- a. the Portland Board of Education's meeting minutes entitled, "Operations Sub-Committee," and dated December 6, 2011, made reference to the pond on the complainant's property;
- b. the Building Department had correspondence from Portland Building Official Lincoln White, which correspondence was written in response to a letter that the complainant had written to United States Senator Joseph Lieberman on January 4, 2011 (the complainant's letter concerned water and sediment affecting Hedstrom Pond);
- c. the Building Department also had an email dated June 14, 2011, from Mr. White to Mr. Paul Bengston, which email concerned the high school drainage;
- d. the Department of Public Works had an email dated March 14, 2012, from the Director of Public Works Rich Kelsey to Mr. White, which email concerned the high school detention basin, and

- e. finally, one of the agencies had correspondence from United State Senator Joseph Lieberman dated December 3, 2010, which correspondence concerned the complainant's pond and included a copy of an email that the complainant had sent to the senator.

14. In addition, it is found that the complainant also received the following records from the First Selectwoman: all responsive police reports and other responsive records from the Wetlands Department.

15. Finally, it is found that, under cover letter dated July 25, 2016, the First Selectwoman wrote to the complainant and stated the following:

[i]n response to your June 16, 2016 FOIA request, received by this office on June 22 2016, attached please find all clearly responsive documents in this office's possession or control. . . . With respect to your requests for information regarding the school expansion project and Hedstrom's pond, these requests are ambiguous and very broad in that they seek 'any information relating to' various subjects and, therefore, an accurate and complete response is not possible. However, all files relating to these topics generally from the Department of Public Works and the Land Use Office will be made available to you for inspection and copying so that you can choose the documents you deem relevant to your request.

16. Finally, it is found that all of the records provided to the complainant by the First Selectwoman were provided free of charge.

17. While the Commission understands that the complainant believes that there should be more responsive records in the respondents' possession—especially, records regarding complaints the complainant believes have been filed against him with the First Selectwoman's office, and records concerning complaints that the complainant has made over the telephone to the Portland Police Department—it is found that there are no additional responsive records.

18. Moreover, while the First Selectwoman was willing in this case to go to other public agencies and inquire whether such agencies had records responsive to the complainant's request, and to disclose such records and/or report the existence of such records to the complainant, she was not legally bound to do so. See Lash, et al. v. FOIC, et al., 300 Conn. 511, 521-522 (2001) (affirming appellate court's determination that one public agency has no duty to make available the records of another public agency).

19. The Commission commends the First Selectwoman on her willingness to go above and beyond her required FOI responsibilities in order to satisfy a citizen's FOI

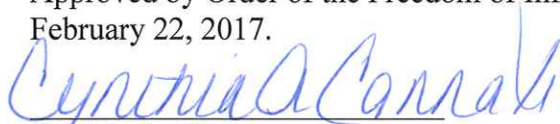
request.

20. It is concluded that the respondents did not violate the FOI Act as alleged in the complaint.

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

1. The complaint is dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of February 22, 2017.



Cynthia A. Cannata  
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

Eric Handel  
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First Selectman, Town of Portland;  
and Town of Portland  
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Acting Clerk of the Commission