

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Kenneth Cast,

Complainant

against

Docket #FIC 2017-0758

Treasurer, Town of Morris;  
and Town of Morris,

Respondents

August 22, 2018

The above-captioned matter was heard as a contested case on May 2, 2018, 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, this matter was consolidated with Docket #FIC 2017-0751, Kenneth Cast v. First Selectman, Town of Morris; and Town of Morris.

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, on December 6, 2017, the complainant went to the Treasurer's office and requested access to records pertaining "to repairs and service performed on the town owned ambulance at County Automotive located in Bethlehem, Connecticut." It is found that the Treasurer provided the complainant with the requested records. It is found that, when he finished his review of the records, the complainant requested access to records pertaining to "any quotes, purchase orders or invoices for work performed or to be performed on [a particular ambulance] at Quiet Zone Auto Repair in Bantam, Connecticut" (the "Quiet Zone" records). It is found that the Treasurer informed the complainant that these records were in the office of the First Selectman. It is found that the complainant went to the office of the First Selectman and requested access to the records. It is found that, approximately one week later, the First Selectman's administrative assistant informed the complainant that the records were now in the Treasurer's office. It is found that, on December 20, 2017, the complainant returned to the Treasurer's office and again requested access to the records. It is found that the Treasurer informed the complainant that she was on her way out, had no time to provide

the records to him and directed him to put his request in writing.

3. By letter dated December 20, 2017 and filed December 20, 2017, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information Act (“FOI Act”) by failing to provide him with access to the records described in paragraph 2, above.

4. 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.

5. 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.

6. 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.”

7. 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.

8. It is found that, on December 20, 2017, after he was informed that he would have to put his request for access to the records in writing, the complainant returned home, drafted a written request, and returned to the office of the Treasurer and submitted the request.

9. The complainant contended that he should not have been forced to put his request for access to records in writing and pay for copies.

10. The Treasurer appeared at the contested case hearing and provided testimony.

11. It is found that, when the complainant returned to the Treasurer's office on December 20, 2017 and requested access to the Quiet Zone records, the Treasurer was on her way to the bank and could not stop to provide the complainant with access to the records, which is perfectly understandable. The Treasurer testified that she required that the complainant put his request in writing because she did not want to lose track of the request. It is found that, later in the day, the Treasurer made copies of the records. It is found that, by email dated December 21, 2017, the Treasurer informed the complainant that copies of the requested records were available for him at a cost of \$3.50. It is found that the complainant paid the fee and received the records.

12. It is found that is not permissible under the FOI Act to demand that a citizen, who is simply seeking to review public records, put his request in writing and pay for copies. It is found that the FOI Act specifically provides the requester with the option of either requesting access or requesting copies. See ¶ 5, above.<sup>1</sup>

13. It is concluded that the respondents violated the disclosure provisions of §1-210(a), G.S., as alleged in the complaint.

14. Based on the evidence adduced at the contested case hearing, it is clear that the respondents are struggling with requirements of the FOI Act. It is concluded that the respondents are in need of a FOI training session and one is so ordered.

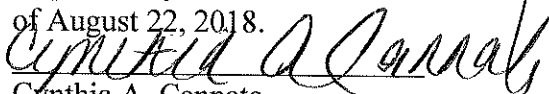
The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint.

1. Henceforth, the respondents shall strictly comply with the disclosure provisions contained in §1-210(a), G.S.

2. Forthwith, the respondents shall reimburse the complainant the \$3.50 that he paid for the copies.

3. Forthwith, the respondents, or their designee, shall arrange for an FOI Act training session to be conducted by the staff of the FOI Commission. The respondents, or their designee, shall forthwith contact the FOI Commission to schedule such training session.

Approved by Order of the Freedom of Information Commission at its regular meeting of August 22, 2018.



Cynthia A. Cannata  
Acting Clerk of the Commission

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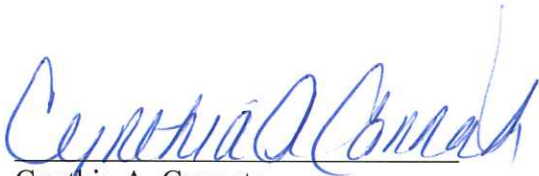
<sup>1</sup> Certainly, the Treasurer may, after explaining that a request for access cannot be handled immediately, *request* that a citizen put his or her request for access in writing; however, if the citizen refuses to do so, the Treasurer should then make her own note about the request.

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:

**KENNETH CAST**, 36 Sean Meadow Drive, Morris, CT 06763

**FIRST SELECTMAN, TOWN OF MORRIS; AND TOWN OF MORRIS**, 3 East Street, Morris, CT 06763



Cynthia A. Cannata  
Acting Clerk of the Commission