

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Vincent Larobina,

Complainant

against

Docket #FIC 2018-0323

Corporation Counsel, City of  
Stamford; and City of Stamford,

Respondents

February 13, 2019

The above-captioned matter was heard as a contested case on September 6, 2018, and January 4, 2019, at which times the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. During the September 6, 2018, contested case hearing, although the presentation of evidence was not yet complete, the parties represented to the Commission that they would likely settle the case, and asked for the opportunity to do so. The Hearing Officer granted such request. Having heard nothing further from the parties, the matter was again heard as a contested case on January 4, 2019. For purposes of the hearing, this matter was consolidated with Docket # FIC 2018-0103; Vincent Larobina v. Tax Assessor, City of Stamford; and City of Stamford.

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

1. It is found that the respondents are public agencies within the meaning of §1-200(1), G.S.

2. It is found that, by letter dated May 15, 2018, the complainant requested either inspection or copies of the following records:

- a – any and all case files involving legal actions filed against the City of Stamford, Stamford Tax Assessor and/or Stamford Tax Department pursuant to Connecticut General Statutes §§12-117a and/or 12-119. This request is limited to the period 2000 through the instant date;
- b - any settlement agreements, modification agreements and/or any other legal agreements entered into by the City of Stamford, Stamford Tax Assessor and/or Stamford Tax Department that

involved the assessment of tax on any Stamford property. This request is limited to the period 2000 through the instant date;

- c – any and all correspondence, communications and/or documents (including electronic, e.g. emails and attachments, texts, data files), from Stamford’s Office of Legal Affairs to the Stamford Tax Assessor concerning the most recent City property revaluation. This request includes direct correspondence, communications and/or documents to the Tax Assessor, as well as any other correspondence, communications and/or documents to the Tax Assessor, as well as any other correspondence, communications and/or documents where the Office of legal Affairs delivered a copy to the Tax Assessor.

3. It is found that, by email dated May 31, 2018, the respondents acknowledged the request described in paragraph 2, above.

4. By letter dated June 13, 2018, and filed June 15, 2018, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide copies of the requested 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, ... 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:

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, ... 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: “Any 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, to the extent that the respondents maintain the records requested by the complainant as described in paragraph 2, above, such records are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

9. It is found that, by email dated June 14, 2018, the respondents further responded to the complainant's May 15, 2018 request, as set forth in paragraphs 10 through 12, below.

10. It is found that, in response to the request described in paragraph 2.a, above, the respondents provided the complainant with a 127 page printout of suits filed, including party names and Superior Court docket numbers, dating from 2008, and informed the complainant that the respondents do not maintain electronic records dating back to 2000. The respondents suggested that the complainant access the records using Judicial Branch files online, and also informed the complainant that many records contained within the respondents' case files are exempt from mandatory disclosure pursuant to the FOI Act.

11. It is found that, in response to the request described in paragraph 2.b, above, the respondents referred the complainant to the response regarding the request in paragraph 2.a, above, and further informed the complainant that the requested settlement agreements are available on the judicial website.

12. It is found that, in response to the request described in paragraph 2.c, above, the respondents claimed that all such records are exempt pursuant to §1-210(b)(10), G.S., the attorney-client privilege.

13. The Commission finds that the respondent's response insofar as it is described in paragraphs 10-11, above, was a reasonable first step in attempting to comply with the complainant's voluminous request. Further, the Commission agrees that some of the communications described in paragraph 2.c, above, and addressed by the respondents in paragraph 12, above, will likely be covered by the attorney-client privilege. However, the Commission notes that as of the January 4, 2019, hearing in this matter, the respondents had not begun the process of actually reviewing any of the requested records.

14. The respondents contended that the complainant's request, described in paragraph 2, above, is burdensome, and would require research.

15. Public agencies such as the respondents are not required to conduct research in order to respond to a FOI request. See Wildin v. FOIC, 56 Conn. App. 683, 746 A.2d 175 (1999). In Wildin, the Appellate Court concluded that a records request involves research if the respondents must exercise discretion to determine whether the records sought fall within the request. *Id.* at 687. Merely having to look in many places in order to gather responsive records, however, does not constitute research. In Wildin, the complainant requested "all correspondence...to or from the Mayor...and to or from the Town Attorney...from January 1, 1996 to the present." *Id.* at 684-85. The Commission found that such records were located in at least fifty, and perhaps in over one hundred files, organized by subject matter, and concluded therefore that the respondents would need to conduct "research" in order to locate all such responsive records. *Id.* at 685. The trial court agreed, but the Appellate Court reversed, noting that the complainant had "specifically identified the records he sought, and there was no analysis required to search for the records." *Id.* at 686. According to the Appellate Court, "a record request that is simply burdensome does not make that request one requiring research." *Id.* at 687.

16. The Commission agrees that a request for eighteen years' worth of legal files from a city the size of Stamford is burdensome, and would necessarily take a great deal of time and resources to fulfill. The Commission notes that, at the January 4, 2019, hearing, the complainant stated that he had narrowed his request to records dating from 2008, rather than 2000. Even with that stipulation, the request remains at ten years' worth of records, and it is found that such number constitutes a considerable and onerous amount, in this case, many hundreds of case files.

17. Moreover, it is found that, up until the January 4, 2019 hearing in this matter, the complainant never checked the judicial website to see if he could obtain at least some of the requested records that he testified he wants, including the settlement agreements, as reasonably suggested by the respondents. The complainant argued that he knew that a lot of what he wanted to inspect in the respondents' files, such as discovery records, would not be available on the judicial website. Nevertheless, the Commission is troubled by the complainant's lack of interest in pursuing this avenue.

18. It is found that the complainant also made separate records requests in May 2018 to the Stamford Board of Representatives and the Board of Assessment Appeals, which the complainant seeks to add to this case, by request dated July 9, 2018. Such request is hereby denied.

19. However, under the facts and circumstances of this case, it is concluded that the request described in paragraph 2, above, does not require research, only an extremely time-consuming and burdensome search. It is further concluded that the complainant does have a right under the FOI Act to inspect the non-exempt portions of the files and records of the respondents.

20. Based on the facts and circumstances of this case, it is concluded that the respondents violated §§1-210(a) and 1-212(a), G.S.

21. The Commission is concerned about the scope of the request at issue, which, as described in paragraph 2, above, seems unduly broad. The Commission notes that of course the respondents are a busy office charged with many legal responsibilities in support of the City of Stamford, in addition to fulfilling their responsibilities under the FOI Act, which undoubtedly includes responding to multiple requesters other than the complainant. Prompt compliance with the complainant's voluminous request must be measured against the totality of these other duties.

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

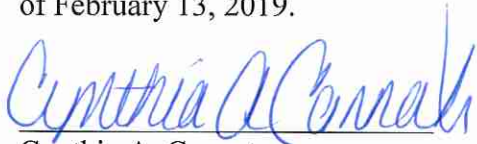
1. The respondents shall conduct a search for records responsive to the request described in paragraph 2, of the findings, above, and shall provide the complainant with copies of any records located as a result of such search, free of charge.

2. The respondents shall begin with provision of the records described in paragraph 2.c of the findings, above.

3. The respondents shall then begin providing the case files at issue in paragraph 2.a and 2.b of the findings, above. The respondents shall begin with the case files for May 1, 2018 - May 15, 2018, the date of the request described in paragraph 2 of the findings, above, and shall provide records on a rolling basis, working backward month by month. Given the magnitude of the request, and the other important responsibilities of the respondents, the respondents may take up to one week for each case file supplied.

4. Any claims of exemption may be addressed in separate complaints, if filed. However, in the alternative, the parties are urged to work together on a modification of the total request at issue. In so doing, the Commission believes that the complainant will receive responsive records in a timelier manner, and the respondents will be relieved of performing a massive amount of work unnecessarily. If the parties avail themselves of this suggestion, the Commission's ombudsman is available to assist.

Approved by Order of the Freedom of Information Commission at its regular meeting of February 13, 2019.



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:

**VINCENT LAROBINA**, 113 Grove Street, Stamford, CT 06901

**CORPORATION COUNSEL, CITY OF STAMFORD; AND CITY OF STAMFORD**,  
c/o Attorney Burt Rosenberg, City of Stamford, PO Box 10152, Stamford, CT 06901



Cynthia A. Cannata  
Acting Clerk of the Commission