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FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
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Herbert Mitchell,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2016-0001

Commissioner, State of Connecticut,
Department of Veteran Affairs; and State
of Connecticut, Department of Veteran Affairs,
Respondent(s)

July 6, 2016

Transmittal of Proposed Final Decision

In accordance with Section 4-179 of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision prepared by the hearing officer in the above-captioned matter.

This will notify you that the Commission will consider this matter for disposition at its meeting which will be held in the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, 1st floor, Hartford, Connecticut, at **2 p.m. on Wednesday, August 10, 2016**. At that time and place you will be allowed to offer oral argument concerning this proposed finding and order. Oral argument shall be limited to ten (10) minutes. For good cause shown, however, the Commission may increase the period of time for argument. A request for additional time must be made in writing and should be filed with the Commission **ON OR BEFORE July 29, 2016**. Such request **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, and (2) include a notation indicating such notice to all parties or their representatives.**

Although a brief or memorandum of law is not required, if you decide to submit such a document, an **original and fourteen (14) copies** must be filed **ON OR BEFORE July 29, 2016**. **PLEASE NOTE: Any correspondence, brief or memorandum directed to the Commissioners by any party or representative of any party MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, (2) include a notation indicating such notice to all parties or their representatives and (3) be limited to argument. NO NEW EVIDENCE MAY BE SUBMITTED.**

If you have already filed a brief or memorandum with the hearing officer and wish to have that document distributed to each member of the Commission, it is requested that **fifteen (15) copies** be filed **ON OR BEFORE July 29, 2016**, and that **notice be given to all parties or if the parties are represented, to their representatives, that such previously filed document is being submitted to the Commissioners for review.**

By Order of the Freedom of
Information Commission

W. Paradis

Acting Clerk of the Commission

Notice to: Herbert Mitchell
Attorney Tanya Feliciano DeMattia

FIC# 2016-0001/Trans/wrbp/TCB//CAL/2016-07-06

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Herbert Mitchell,

Complainant

against

Docket #FIC 2016-0001

Commissioner, State of Connecticut,
Department of Veteran Affairs; and
State of Connecticut, Department of
Veterans Affairs,

Respondents

June 28, 2016

The above-captioned matter was heard as a contested case on March 21, and May 9, 2016, at which times the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

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. By letter dated December 2, 2015, the complainant submitted a request to the respondents. It is found that the complainant's December 2, 2015 letter included a mix of 21 questions and requests for copies of records listed numerically.
3. It is found that by letter dated December 31, 2015 and filed on January 4, 2016, the complainant appealed to this Commission alleging that the respondents had violated the Freedom of Information ("FOI") Act by failing to respond to this request.
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, to the extent they exist, are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

8. It is found that by letter dated January 22, 2016, the respondents answered the questions in the complainant’s December 2, 2015 letter (hereinafter “respondents’ letter”) and provided him with responsive records to the extent they existed.

9. It is found, however, that the respondents’ letter included answers and records responsive to questions and records requests the complainant made both before and after his December 2, 2015 request. Those particular responses were paragraphs numbered 22 through 29 in the respondents’ letter.

10. At the May 9, 2016 hearing, the complainant narrowed the scope of his appeal to six of the responses made in the respondents’ letter, one of which included the response numbered paragraph 29.

11. It is found, however, that the responses numbered 22 through 29 in the respondents’ letter were not provided in response to the complainant’s December 2, 2015 letter which is the subject of the complaint in this matter. It is further found that the responses numbered paragraph 22 through 29 in the respondents’ letter were not included in any other manner in the complainant’s January 4, 2016 appeal to this Commission.

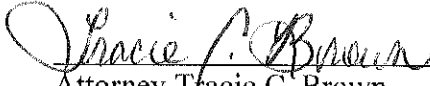
12. It is concluded that any allegations raised by the complainant at the hearing with respect to the response given in paragraph numbered 29 of the respondents’ January 22, 2016 letter are beyond the scope of the complaint and will not be addressed in this appeal.

13. With respect to the remaining 5 responses, it is found that the respondents either answered the complainant's questions or provided him with all records maintained by the respondent department that are responsive to his requests.

14. It is concluded that the respondents did not violate the FOI Act as alleged by the complainant.

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.



Attorney Tracie C. Brown
as Hearing Officer