

Since 1975



FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18 20 Trinity Street, Suite 100 • Hartford, CT 06106
Toll free (CT only): (866)374-3617 Tel: (860)566-5682 Fax: (860)566-6474 • www.state.ct.us/foi/ • email: foi@po.state.ct.us

Miguel Pittman,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2016-0201

Chief, Police Department, City of New Haven;
Police Department, City of New Haven; and
City of New Haven,
Respondent(s)

September 30, 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, October 26, 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 October 14, 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 October 14, 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 October 14, 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: Miguel Pittman
Attorney Kathleen Foster

FIC# 2016-0201/Trans/wrbp/KKR/TCB/2016-09-30

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Miguel Pittman,

Complainant

against

Docket #FIC 2016-0201

Chief, Police Department, City of
New Haven; Police Department,
City of New Haven; and City of
New Haven,

Respondents

July 11, 2016

The above-captioned matter was heard as a contested case on June 13, 2016, at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint. After the hearing, and at the request of the hearing officer, the complainant submitted an exhibit and, pursuant to §1-21j-38, of the Regulations of Connecticut State Agencies, such exhibit has been marked as Complainants' Exhibit D (after-filed).

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, in 2013, the complainant unsuccessfully applied to the respondent police department to be a police officer. It is found that, by letter dated November 18, 2015, the complainant requested from the respondents a copy of his entire application file (the "requested records"). It is found that, by letter dated December 15, 2015, the respondents denied the November 18th request, without explanation. It is found that, on March 9, 2016, the complainant renewed his request, this time hand-delivering such request to the respondents' corporation counsel's office. It is found that the complainant spoke to a paralegal in the office that day who informed the complainant that the respondents had denied the request.
3. By email dated and filed March 11, 2016, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to comply with the request, described in paragraph 2, above.
4. Section 1-200(5), G.S., provides:

“[p]ublic 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:

[e]xcept 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. Any agency rule or regulation, or part thereof, that conflicts with the provisions of this subsection or diminishes or curtails in any way the rights granted by the subsection shall be void. (Emphasis added).

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) and 1-210(a), G.S.

8. It is found that, in response to the complainant’s records request, the respondents provided the complainant an opportunity to inspect the requested records, and that the complainant, in fact, inspected such records on more than one occasion. However, it is found that the respondents denied his request for a copy of the requested records based upon a department policy to permit an unsuccessful applicant the opportunity only to inspect his or her application file. At the hearing in this matter, the respondents conceded that their denial of the request for a copy of the requested records was not based upon any applicable exemption to the disclosure requirements in the FOI Act.

9. It is found that, on June 9, 2016, approximately six months after he first requested a copy of the records, described in paragraph 2, above, and three days before the hearing in this matter, the respondents provided the complainant with a copy of such records, via email.

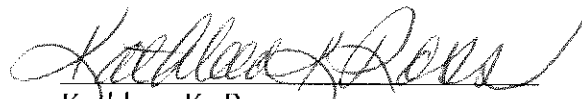
10. At the hearing in this matter, the complainant claimed that the respondents failed to provide him with a complete copy of the requested records.

11. Based upon the credible testimony of the respondents' witness, it is found that the respondents provided a complete copy of the requested records to the complainant three days before the hearing in this matter.

12. It is further found, however, that the respondents failed to provide a copy of the requested records to the complainant "promptly," as required by §§1-210(a) and 1-212(a), G.S., and it is therefore concluded that the respondents violated those provisions.

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 promptness requirements in §§1-210(a) and 1-212(a), G.S.



Kathleen K. Ross
as Hearing Officer