

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Mark Dumas,

Complainant

against

Docket #FIC 2015-599

John Harkins, Mayor, Town of  
Stratford; and the Town of Stratford,

Respondents

July 13, 2016

The above-captioned matter was heard as a contested case on March 2, 2016, at which time 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. It is found that, by email dated August 14, 2015, the complainant made a request to the respondents to inspect and copy records related to letters of informed consent waiving any conflict of interest for any lawyer or law firm seeking to represent the town of Stratford where a conflict of interest actually existed.
3. By letter dated September 11, 2015 and filed on September 14, 2015, the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information ("FOI") Act by denying his request. The complainant requested the imposition of a civil penalty against the respondent mayor.

1. 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.

2. 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.

3. 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.”

4. 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.

5. It is found that the respondents responded to the complainant’s request on September 17, 2015 acknowledging his request, and then again on September 23, 2015, asking that he limit his request to either a specific period of time and/or a specific matter or type of matter.

6. It is found that on November 19, 2015, the respondents provided the complainant with a copy of three records, totaling six pages, in response to his request.

7. At the hearing on this matter, the complainant asserted that he was not provided with the records promptly within the meaning of §§1-210 and 1-212, G.S.

8. It is found that the three records that were provided to the complainant were not just the only records responsive to the complainant’s specific request but were the only records of any letters related to waivers of any conflict of interest the respondents maintained. It is found that such records were maintained by the legal assistant to the Town Attorney in a single file readily accessible to her.

9. It is found that there was no justification for the three month delay in providing the complainant with six pages of the only records the respondents maintained that related to his request.

10. It is found, based on the facts and circumstances of this case, that the respondents failed to promptly comply with the complainant’s request within the meaning of §§1-210 and 1-212, G.S.

11. The Commission declines to consider the imposition of a civil penalty against the named respondent in this case.

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 promptness provisions of §§1-210(a) and 1-212(a), G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of July 13, 2016.

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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:

Mark Dumas  
167 Cherry Street  
#107  
Milford, CT 06460

John Harkins, Mayor, Town of Stratford;  
and the Town of Stratford  
c/o Bryan L. LeClerc, Esq.  
Berchem, Moses & Devlin, P.C.  
75 Broad Street  
Milford, CT 06460

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Cynthia A. Cannata  
Acting Clerk of the Commission