

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Michael Sinnott,

Complainant

against

Docket #FIC 2019-0599

Building Official, Town of Stratford;
Office of the Building Official,
Town of Stratford,

Respondents

March 24, 2021

The above-captioned matter was heard as a contested case on October 21, 2020, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. Due to the COVID-19 pandemic and the state's response to it, the hearing was conducted telephonically.¹

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 letter dated August 28, 2019, the complainant requested that the respondents provide him with access to the following records: “. . . all files for complaints about peoples' houses received from the police for the past two years.”
3. It is found that, by letter dated August 30, 2019, the respondents acknowledged the request, indicating that they were processing the request and would contact the complainant shortly.
4. By letter dated September 20, 2019 and filed September 26, 2019, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide him with access to the requested records.²

¹ On March 14, 2020, the Governor issued Executive Order 7B, which suspended the requirement to conduct public meetings in person.

² On March 25, 2020, the Governor issued Executive Order 7M, thereby suspending the provisions of Conn. Gen. Stat. §1-206(b)(1), which requires the Freedom of Information Commission to hear and decide an appeal within one year after the filing of such appeal. Executive Order 7M is applicable to any appeal pending with the Commission on the issuance date and to any appeal filed on or after such date, for the duration of the current public health and civil preparedness emergency. Consequently, the Commission retains jurisdiction over this matter.

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, 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.

6. 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.

7. 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.”

8. It is found that the records requested by the complainants are public records within the meaning of §§1-200(5), 1-210(a), 1-212(a), G.S., and, to the extent such records exist, must be disclosed unless they are exempt from disclosure.

9. It is found that, on or about August 28, 2019, the complainant’s home was searched pursuant to an administrative search warrant, which issued to the respondent office and/or Brian Donovan, the town’s building official. It is found that, on the same day that the incident occurred, the complainant requested that Mr. Donovan provide him with access to all cases concerning residential homes in the Town of Stratford that had been referred to Mr. Donovan’s office by the Stratford Police Department. In essence, it is found that the complainant was seeking access to records pertaining to residential homes that had been referred to Mr. Donovan’s office and handled in the same manner as the complainant’s matter.

10. Mr. Donovan appeared at the contested case hearing and testified on behalf of the respondents.

11. It is found that, at the time the complainant issued the request referred to in paragraph 2, above, Mr. Donovan was the town’s building official. It is further found that Mr.

Donovan continues to be the town's building official.

12. It is found that the matter concerning the complainant's residence was referred by the Stratford Police Department to the town's health department and then by the town's health department to Mr. Donovan's office.

13. It is further found that, upon receiving the request for access in this case, Mr. Donovan conducted a thorough search for records responsive to the request. It is found that Mr. Donovan's search included a search of both hardcopy and electronic records maintained in the Office of the Building Official. It is found that no responsive records were located.

14. Mr. Donovan testified that, in his 16-year tenure with the Office of the Building Official, this is the first referral he has received from the town's health department.

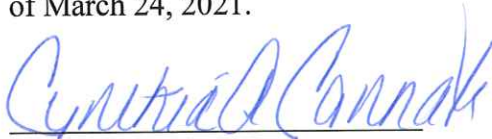
15. It is found that, shortly after conducting the search referred to in paragraph 13, above, the respondents informed the complainant that they did not maintain any records or files responsive to his request.

16. It is concluded that the respondents did not violate the FOI Act, as alleged in the complaint.

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.

Approved by Order of the Freedom of Information Commission at its regular meeting of March 24, 2021.



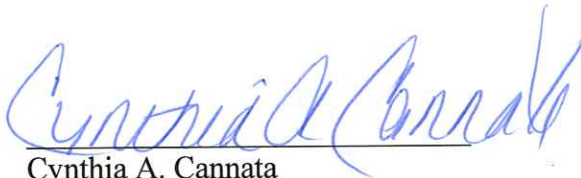
Cynthia A. Cannata
Acting Clerk of the Commission

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:

MICHAEL SINNOTT, 68 Frash Street, Stratford, CT 06615

BUILDING OFFICIAL, TOWN OF STRATFORD; OFFICE OF THE BUILDING OFFICIAL, TOWN OF STRATFORD; AND TOWN OF STRATFORD, c/o Attorney Bryan L. LeClerc, Berchem Moses P.C., 75 Broad Street, Milford, CT 06460 and Attorney Alfred P. Bruno, Berchem Moses, P.C., 75 Broad Street, Milford, CT 06460



Cynthia A. Cannata
Acting Clerk of the Commission