

STATE OF CONNECTICUT
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by

FINAL DECISION

Jacquelin Heftman,

Complainant

against

Docket # FIC 2021-0513

Town Clerk, City of Stamford; and City of
Stamford,

Respondents

August 10, 2022

By email filed Friday September 3, 2021, the complainant appealed to the Freedom of Information (“FOI”) Commission, alleging that the respondents violated the FOI Act by denying her request to inspect certain public records. On May 10, 2022, the respondents moved to dismiss the complaint, contending that the Commission lacked subject matter jurisdiction because there was no denial at the time the complaint was filed. By email dated May 16, 2022, the complainant filed an opposition to the motion.

On May 19, 2022, the hearing officer notified the parties that a hearing would convene on the motion to dismiss, and on May 25, 2022 the parties appeared at such hearing. Due to the COVID-19 pandemic and the state’s response to it, the hearing was conducted through the use of electronic equipment (remotely) pursuant to §149 of Public Act 21-2 (June Special Session), as amended by §1 of Public Act 22-3.

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, on Tuesday, August 31, 2021, the complainant appeared at the Town Clerk’s office and orally requested to inspect certain absentee ballot applications. It is found that the complainant was not immediately provided access, but instead was advised by the respondent Town Clerk (“Town Clerk”) that the office was unable to accommodate her request to inspect that day.
3. It is found that the following day, by email dated Wednesday, September 1, 2021, the complainant followed up on her request to inspect the absentee ballot applications. It is further found that the Town Clerk acknowledged receipt of the complainant’s request and advised that she would get back to her.
4. It is further found that the complainant replied to the Town Clerk’s email and asked if her request had been denied. It is found that the Town Clerk replied within minutes and indicated

that she was working on a response. It is further found that the complainant replied and stated that she would appear at the Office of the Town Clerk at 11:00 a.m. on Thursday, September 2, 2021 to inspect.

5. It is further found that on Thursday, September 2, 2021, at 10:01 am, the complainant emailed the Town Clerk and asked if she could inspect the records at 11:00 am, or alternatively at a later time that day. It is further found that the respondent Town Clerk replied and advised that she was waiting for feedback from the legal department for the City of Stamford regarding the pending request to inspect.

6. It is found that, by email dated Thursday, September 2, 2021, the complainant renewed her request to inspect. It is further found that, by email dated Friday, September 3, 2021, the respondent Town Clerk again acknowledged receipt of the complainant's ongoing request and advised that she would let the complainant know when her request to inspect could be accommodated.

7. As noted above, the complainant filed the instant complaint on September 3, 2021. At the hearing, the respondents contended that they had not denied the complainant's request to inspect the records set forth in paragraph 2, above, at the time of the filing of the complaint, and therefore the Commission lacked subject matter jurisdiction to adjudicate the complaint.

8. Section 1-206(a), G.S., provides:

[a]ny denial of the right to inspect or copy records provided for under section 1-210 shall be made to the person requesting such right by the public agency official who has custody or control of the public record, in writing, within four business days of such request ... Failure to comply with a request to so inspect or copy such public record within the applicable number of business days shall be deemed to be a denial (emphasis added).

9. Section 1-206(b)(1), G.S., provides, in relevant part, that “[a]ny person denied the right to inspect or copy records under 1-210 . . . or denied any other right conferred by the FOI Act may appeal therefrom to the Freedom of Information Commission, by filing a notice of appeal with said commission...”

10. Section 1-206, G.S., affords a person the right to appeal to this Commission (1) from a written denial of a request to inspect or copy public records or (2) where a public agency has failed to comply with a request to inspect or copy public records within the applicable number of business days (in this case, four business days), which failure shall be deemed to be a denial. See Town of West Hartford v. Freedom of Information Commission, 218 Conn. 256, 262 (1991).

11. As set forth in paragraph 2, above, the complainant initially requested to inspect records on Tuesday, August 31, 2021. It is further found that the complaint was filed with the Commission on Friday, September 3, 2021, just three business days after the request.

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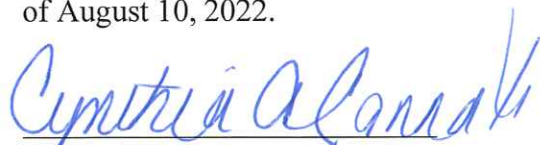
12. It is found that the respondents' actions and communications with the complainant were reasonable under the facts and circumstances of this case and were not tantamount to a denial within the meaning of §1-206(b)(1), G.S.

13. Based on the foregoing and the facts and circumstances of this case, it is concluded that the Commission lacks subject matter jurisdiction over 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 dismissed for lack of subject matter jurisdiction.

Approved by Order of the Freedom of Information Commission at its regular meeting of August 10, 2022.




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:

JACQUELIN HEFTMAN, 97 Acre View Drive, Stamford, CT 06903

TOWN CLERK, CITY OF STAMFORD; AND CITY OF STAMFORD, c/o Attorney Michael S. Toma, City of Stamford, Office of Corporation Counsel, 888 Washington Boulevard, 9th Floor, Stamford, CT 06904



Cynthia A. Cannata
Acting Clerk of the Commission