

STATE OF CONNECTICUT  
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by

FINAL DECISION

Anthony Lazzari,

Complainant

against

Docket # FIC 2022-0372

Commissioner, State of Connecticut,  
Department of Consumer Protection; and  
State of Connecticut, Department of  
Consumer Protection,

Respondents

August 9, 2023

The above-captioned matter was heard as a contested case on June 9, 2023, 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 July 26, 2022, the complainant requested that the respondents provide him with certified copies of the following records related to occupational license application number OCCE 024400.lot: “any/all information, documents, records, reports, data, emails (staff included) and application(s) related to and associated with the applicant/movant Anthony Lazzari ....”
3. It is found that, by emails dated July 26, 2022 and July 27, 2022, the respondents acknowledged the complainant’s request.
4. By email received and filed August 23, 2022, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to comply with the request described in paragraph 2, above.
5. 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, videotaped, printed, photostated, photographed or recorded by any other method.

6. 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 . . . (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 described in paragraph 2, above, to the extent they exist and are maintained by the respondents, are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

9. It is found that, on or around April 13, 2022, the complainant applied to the respondents for an occupational license. It is found that, in connection with such application, the complainant authorized the respondents to “conduct a full investigation into [his] background and activities,” including a criminal background check and consumer reporting agency background check. It is also found that the complainant submitted his fingerprints to the respondents.

10. It is found that, by letter dated June 16, 2022, the respondents notified the complainant that his application was denied for “failure to disclose facts material to your application regarding your criminal history.”

11. It is found that, by email dated August 31, 2022, the respondents provided the complainant with copies of certain records responsive to the request described in paragraph 2, above. It is further found that, sometime in or around December 2022, the respondents provided the complainant with certified copies of records responsive to such request. It is found that such certified copies included the records that the respondents had provided to the complainant on August 31, 2022, plus two additional records.

12. At the hearing in this matter, the complainant acknowledged that the respondents provided him with certified copies of records responsive to his request, as described in paragraph 11, above. However, the complainant contended that the respondents failed to provide him with copies of the following additional records: any record of the complainant’s criminal history referenced in the June 16, 2022 letter, described in paragraph 10, above; the fingerprint card that the complainant submitted in connection with his license application; and any consumer reporting agency background check received in connection with such application. The complainant also contended that, to the extent the respondents failed to retain any records related

to his license application, such failure violated the FOI Act. Finally, the complainant contended that the respondents did not comply with his request promptly.

13. With respect to the complainant's criminal history record, it is found that the respondents conducted a criminal history record check of the complainant by accessing the Connecticut Criminal History Record System ("CCHRS"). It is found that the CCHRS is an electronic database maintained by the Department of Emergency Services and Public Protection ("DESPP"). It is found that, while the respondents have access to such database for purposes of conducting criminal background checks in connection with license applications, the CCHRS is not "maintained or kept on file" by the respondents, within the meaning of §1-210(a), G.S.

14. At the hearing in this matter, respondents testified that they could not recall whether they ever printed a copy of the complainant's criminal history from the CCHRS. However, the respondents further testified that, when they do print copies of an applicant's criminal history from the CCHRS, their general practice is not to retain such copies in their records. The respondents further testified, and it is found, that they conducted a thorough search of their records for any copies of the complainant's criminal history, and that no such records exist.<sup>1</sup>

15. With respect to the fingerprint card described in paragraph 12, above, it is found that the respondents submitted the complainant's fingerprint card for processing to DESPP, and that the respondents did not make or retain a copy of such card. It is found that DESPP notified the respondents that the complainant's fingerprint card could not be processed because the fingerprints on such card were not of sufficient quality.<sup>2</sup> It is found that the respondents conducted a thorough search of their records for any copies of the complainant's fingerprint card, and that no such records exist.

16. With respect to any consumer reporting agency background check, it is found that the respondents did not conduct any credit inquiry or otherwise receive any information about the complainant from any consumer reporting agency. It is further found that the respondents conducted a thorough search for any records about the complainant from a consumer reporting agency, and that no such records exist.

17. Based on the foregoing, it is concluded that the respondents did not violate the FOI Act by failing to provide the complainant with certified copies of all records responsive to the request described in paragraph 2, above.

18. With respect to the complainant's claim that the respondents violated the FOI Act by failing to retain records related to his license application, it is well settled that authority over matters relating to the retention and destruction of public records rests with the Public Records Administrator, pursuant to §§1-18 and 11-8 through 11-8b, G.S., and with the Office of the State's Attorney, pursuant to §1-240, G.S. See *Robert Cushman v. Director, Central*

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<sup>1</sup> The respondents testified that, in response to the complainant's request for a copy of his criminal history, they notified him that he could obtain a copy of such record from DESPP. The respondents further provided the complainant the appropriate form to request such record from DESPP.

<sup>2</sup> The respondents testified that they did not ask the complainant to resubmit his fingerprints because they had already determined that his application should be denied based on the criminal history record check, as described in paragraph 10, above.

*Communications, City of Middletown, et al.*, Docket #FIC 2019-0719, ¶22 (Nov. 18, 2020); *David Montoya v. Superintendent of Schools, Westport Public Schools, et al.*, Docket #FIC 2019-0607, ¶17 (June 23, 2021); *James J. Connolly v. Mayor, City of Hartford, et al.*, Docket #FIC 1997-397, ¶12 (April 8, 1998); *Bijan Bahramian v. City and Town of Meriden, et al.*, Docket #FIC 1979-220, ¶6 (Feb. 26, 1980).

19. With respect to the complainant's claim that the respondents failed to comply with his request promptly, this Commission has defined the word "promptly," as used in §§1-210(a) and 1-212(a), G.S., to mean "quickly and without undue delay, taking into account all of the factors presented by a particular request .... [including]: the volume of records requested; the amount of personnel time necessary to comply with the request; the time by which the requestor needs the information contained in the records; the time constraints under which the agency must complete its other work; the importance of the records to the requester, if ascertainable; and the importance to the public of completing the other agency business without the loss of the personnel time involved in complying with the request." FOI Commission Advisory Opinion #51, *In the Matter of a Request for Declaratory Ruling, Third Taxing District of the City of Norwalk* (Jan. 11, 1982).

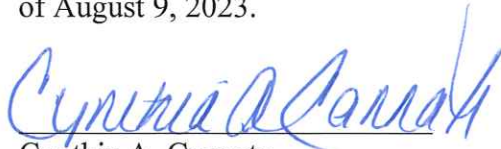
20. It is found that, on average, the respondents receive approximately 10 requests per week for copies of public records. It is found that the respondents provided the complainant with copies of all but two of the records responsive to his request on August 31, 2022, approximately one month after the date of such request. It is found that the respondents provided the complainant with copies of the remaining two records, as well as certified copies of all responsive records, in or around December 2022.

21. It is found that, under the facts and circumstances of this case, the respondents complied with the complainant's request promptly, within the meaning of §§1-210(a) and 1-212(a), G.S. It is therefore concluded that the respondents did not violate the promptness provisions in §§1-210(a) and 1-212(a), G.S.

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.

Approved by Order of the Freedom of Information Commission at its regular meeting of August 9, 2023.



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:

**ANTHONY LAZZARI**, 34-3 Shunpike Road, #107, Cromwell, CT 06416

**COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF CONSUMER PROTECTION; AND STATE OF CONNECTICUT, DEPARTMENT OF CONSUMER PROTECTION**, c/o Assistant Attorney General Joseph E Gasser, State of Connecticut, Office of the Attorney General, 165 Capitol Ave, Hartford, CT 06106



Cynthia A. Cannata  
Acting Clerk of the Commission