

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Elijah El-Hajj-Bey,

Complainant

against

Docket #FIC 2023-0367

Director, Department of Public  
Works, Town of East Hartford;  
Department of Public Works,  
Town of East Hartford; and  
Town of East Hartford,

Respondents

June 26, 2024

The above-captioned matter was heard as a contested case on December 20, 2023, at which time the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits, and argument on the complaint.

A Report of Hearing Officer, dated December 27, 2023, recommending that the complaint be dismissed for lack of subject matter jurisdiction, was scheduled to be considered by the Commission at its regular meeting of January 24, 2024. On January 10, 2024, the respondents moved to supplement the administrative record with a communication that they received from the complainant on July 6, 2023, which established the Commission's jurisdiction over the appeal in this matter. Upon receipt of the respondents' motion, the hearing officer withdrew the Report of Hearing Officer from the Commission's January 24, 2024 meeting agenda and scheduled a reopened contested case hearing. The complainant's July 6, 2023 communication has been marked as Exhibit B.

On March 25, 2024, this matter was heard as a reopened contested case hearing, 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 hand-delivered request dated June 6, 2023, the complainant made the following request to the respondents:

copies of Flood Control records for August 19, 2021,  
concerning Storm Fred, river gage reading, weather reports,

number of stations open, number of staff and number of hours worked.

3. It is found that, by email dated June 12, 2023, the respondents acknowledged the complainant's request.

4. It is found that, by email dated July 6, 2023, the complainant requested a status update with regard to the processing of his request.

5. It is found that, shortly after receiving the request set forth in paragraph 2, above, the respondents searched their logs for records responsive to the request but did not locate any responsive records. Thereafter, it is found that the respondents contacted their vendor to obtain the weather report for August 19, 2021. It is found that the respondents were able to obtain the weather report from their vendor and provide it to the complainant prior to the December 20, 2023 contested case hearing.

6. By email dated and filed July 19, 2023, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide him with all of the requested records.

7. 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.

8. 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.

9. 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."

10. It is concluded that the requested records, to the extent that they exist, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

11. It is found that, on August 19, 2021, the complainant passed by the respondent town's Meadow Hill Pump Station ("Meadow Hill" or the "station"), which is one of three pump stations maintained by the respondents, and saw many vehicles in the Meadow Hill's parking lot. It is further found that, based on the number of vehicles in the parking lot, the complainant believed that the station's pumps had been activated. It is further found that the request set forth in paragraph 2, above, seeks records concerning the activation of the pumps at Meadow Hill on August 19, 2021.

12. The Director of Public Works for the Town of East Hartford (the "respondent Director") appeared and testified at both contested case hearings on behalf of the respondents.

13. Based upon the testimony of the respondent Director, it is found that, in order to determine whether there was an event on August 19, 2021 that necessitated the activation of pumps at a pump station within the Town of East Hartford, it is necessary to consult the respondents' historical, hardcopy logs. It is found that, upon receipt of the request set forth in paragraph 2, above, the respondent Director searched such logs and found no records indicating that any of the pumps at any of the pump stations within the Town of East Hartford had been activated on August 19, 2021. It further found that, although the respondents did not maintain any responsive records to provide to the complainant, they contacted the vendor that supplies them with weather reports and requested that the vendor provide them with the weather report for August 19, 2021. It is found that, upon receipt of a copy of the weather report from their vendor, the respondents promptly provided the report to the complainant, free of charge.

14. While the complainant argues that the weather report provided to him by the respondents indicates that there was a heavy rain event on August 19, 2021, it is found, based upon the testimony of the respondent Director, that even though there may have been a heavy rain event on August 19, 2021, such an event does not necessarily mean that the pumps were activated.

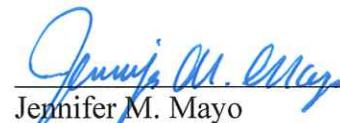
15. In sum, it is found that the respondents conducted a thorough search for responsive records in the location where such records would be maintained if they existed. It is further found that, other than the weather report obtained from their vendor, the respondents do not maintain any records responsive to the request set forth in paragraph 2, above.

16. It is concluded therefore that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S., 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 dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of June 26, 2024.

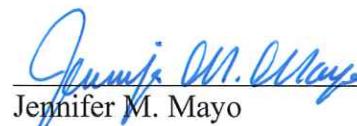
  
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Jennifer M. Mayo  
Acting Clerk of the Commission

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:

**ELIJAH EL-HAJJ-BEY**, 20 Kenneth Circle, Windsor, CT 06095

**DIRECTOR, DEPARTMENT OF PUBLIC WORKS, TOWN OF EAST HARTFORD; DEPARTMENT OF PUBLIC WORKS, TOWN OF EAST HARTFORD; AND TOWN OF EAST HARTFORD**, c/o Attorney Robert P. Fitzgerald, East Hartford Office of Corporation Counsel, 740 Main Street, East Hartford, CT 06108

  
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Jennifer M. Mayo  
Acting Clerk of the Commission