

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Thomas Egan,

Complainant

against

Docket #FIC 2023-0277

Comptroller, Office of the Comptroller,  
City of Ansonia; Office of the Comptroller,  
City of Ansonia; and City of Ansonia,

Respondents

May 22, 2024

The above-captioned matter was heard as a contested case on February 22, 2024, 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, on May 3, 2023, the complainant visited the Office of the Comptroller for the City of Ansonia during normal business hours and made an oral request to immediately inspect certain records “containing certain information presented to the Ansonia Mayor’s proposed Budget for the 2023-2024 Fiscal Year.”
3. By letter of complaint, dated and filed June 2, 2023, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information Act (“FOI”) Act by denying his right to promptly inspect the records, described in paragraph 2, above.
4. 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 1-218, whether such data or information be handwritten, typed, tape-recorded, videotaped, printed, photostated, photographed or recorded by any other method.

5. Section 1-210(a), G.S., provides, in relevant part:

[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 (1) inspect such records promptly during regular office or business hours, or ... (3) receive a copy of such records in accordance with section 1-212. Any agency rule or regulation, or part thereof, that conflicts with the provisions of this subsection or diminishes or curtails in any way the rights granted by this subsection shall be void. (Emphasis added.)

6. Section 1-212(a), G.S., provides, in relevant part: “[a]ny person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

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

8. It is found that, on May 3, 2023, the complainant called the respondent Comptroller’s Office and informed the Assistant Comptroller that he would be arriving at such office in approximately two hours to inspect records. It is found that when he arrived at the Comptroller’s Office, the Assistant Comptroller had left early, and he was directed to speak with the respondent Comptroller regarding his request.

9. It is found that the respondent Comptroller denied the complainant’s request for immediate access to the requested records and informed the complainant that he would need to make an appointment. It is also found that, by emails dated July 11, 2023, July 14, 2023, July 17, 2023, and July 20, 2023, the respondent Comptroller reached out to the complainant in an attempt to schedule a convenient time for the complainant to inspect the requested records.

10. It is found that, by email dated July 21, 2023, the complainant responded to the respondent Comptroller’s emails, described in paragraph 9, above, for the first time.

11. It is found that, on July 26, 2023, the complainant met with the respondent Comptroller at the Comptroller’s Office. It is also found that, at such meeting, the parties discussed the complainant’s request and the Comptroller’s budget materials, and the Comptroller informed the complainant that the responsive records were all online on the Comptroller’s website.

12. With regard to the complainant’s claim that the denial of his request to immediately inspect records, on May 3, 2023, violated the FOI Act, it is well settled that the law does not require “immediate” access to records upon demand, but rather permits a person the right to receive a copy of or to inspect records “promptly.” See Deanna Bouchard v. Andreas Bisbikos,

First Selectman, Town of Colchester, et al., Docket #FIC 2022-0199 (March 22, 2023); Anne Manusky v. Commissioner, State of Connecticut, Department of Education, et al., Docket #FIC 2016-0224 (November 16, 2016); see also Bradshaw Smith v. Stephen Mitchell, Chairman, Greater Hartford Transit District, et al., Docket #FIC 2014-184 (October 8, 2014); Suzanne Carlson and the Journal Inquirer v. Mayor, Town of Vernon, et al., Docket #FIC 2011-542 (May 23, 2012) (“nothing in the FOI Act requires employees of a public agency, or public officials, necessarily to, to interrupt their work in order to immediately fulfill a request to inspect or copy records”).

13. At the hearing on this matter, the respondents testified, and it is found, that the Comptroller’s Office is a small, three-person office that is responsible for a broad range of financial duties and responsibilities on behalf of the Town. It is also found that the complainant’s May 3<sup>rd</sup> request was broad in nature and that it would take time for the respondents to ascertain what records he was seeking and gather such responsive records for inspection.

14. It is therefore concluded, based on the facts and circumstances of this case, that the respondents did not violate the promptness provisions of the FOI Act by refusing to provide immediate inspection of the requested records on May 3, 2023, and requiring the complainant to make an appointment to inspect such records.

15. It is found, however, that on May 3, 2023, the respondent Comptroller informed the complainant that he would need to file a written FOI request before the Comptroller’s Office would process the complainant’s request to inspect records. It is also found that the Comptroller reiterated this requirement in his June 11, 2023 email, described in paragraph 9, above. Moreover, the Assistant Comptroller testified, and it is further found, that she informed the complainant in early May of 2023 that his request to inspect records would need to be in writing. It is found that the complainant declined to do so.

16. At the hearing on this matter, the respondents’ witnesses repeatedly testified, and the respondents’ counsel repeatedly argued, that it is the respondent Town’s position that all FOI requests, including requests to inspect records during regular business hours, must be made in writing.

17. It is found, based on the findings of fact in paragraphs 15 and 16, above, that the complainant was required to make his request to inspect records in writing and that the respondents have a general policy, or “agency rule”, requiring that FOI requests to inspect records be made in writing.

18. In Planning & Zoning Comm’n of Town of Pomfret v. Freedom of Info. Comm’n, 130 Conn. App. 488, 457 (2011), the Appellate Court, interpreting the provisions of §1-212(a), G.S., held that requests for *copies* of public records must be in writing. However, the courts have recognized, and this Commission has long held, that a public agency may not require requests to *inspect* public records to be made in writing. See Sedensky v. Freedom of Info. Comm’n, No. HHBCV136022849S, 2013 WL 6698055, at \*5; See also Darlene Chapdelaine v. First Selectman, Town of Eastford, et al., Docket #FIC 2013-398 (February 11, 2014); Steven

Ballock v. Director of Finance, Town of Monroe, et al., Docket #FIC 2012-355 (May 22, 2013); Patrick O'Hara v. First Selectman, Town of Monroe, et al., Docket #FIC 2006-480 (June 13, 2007); and David M. DeFelize v. Director of Policy and Development of the City of Bridgeport, Docket #FIC 1988-399 (January 25, 1989).

19. Accordingly, it is concluded that the respondents violated the FOI Act by refusing the complainant's request to inspect public records on the ground that such request was not in writing. It is also concluded that any policy or "agency rule" of the respondents requiring that requests to inspect records be made in writing is void.

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 access requirements of §§1-210(a) and 1-212(a), G.S.
2. Within one week of the date of the Notice of Final Decision in this matter, the respondents shall contact the Commission's public education officer to schedule training on the FOI Act.

Approved by Order of the Freedom of Information Commission at its regular meeting of May 22, 2024.



Molly E. Steffes  
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:

**THOMAS EGAN**, c/o Attorney M. Leonard Caine III, Caine & Caine, 246 East Main Street Unit-3, Torrington, CT 06790

**COMPTROLLER, OFFICE OF THE COMPTROLLER, CITY OF ANSONIA;  
OFFICE OF THE COMPTROLLER, CITY OF ANSONIA; AND CITY OF ANSONIA**,  
c/o Attorney John P. Marini, Marino, Zabel & Schellenberg, PLLC, 657 Orange Center Road,  
Orange, CT 06477



Molly E. Steffes  
Acting Clerk of the Commission