

STATE OF CONNECTICUT
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by

FINAL DECISION

Michael Mourning,

Complainant

against

Docket # FIC 2023-0639

Chief Executive Officer, Housatonic Area
Regional Transit District; Chair, Board of
Directors, Housatonic Area Regional Transit
District; Board of Directors, Housatonic
Area Regional Transit District; and
Housatonic Area Regional Transit District,

Respondents

October 23, 2024

The above-captioned matter was heard as a contested case on June 5, 2024, at which time the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint.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 November 13, 2023, the complainant requested that the respondents provide him with copies of records “connected and related to the procedures of the Hart Bus Transit duties of the Chief [E]xecutive Officer and [B]oard of Directors more specific duties, also total of worked hours, along [with] days work[ed] for the month of September, 2023.”
3. It is found that by letter dated November 16, 2023, the respondents provided the complainant with a copy of the HarTransit Board of Directors Bylaws, a job description for the HarTransit Chief Executive Officer, and a printout of the respondent Board of Directors membership list. It is also found that the respondents provided the complainant with information pertaining to the total number of days and hours worked by the respondent Chief Executive Officer during the month of September 2023.
4. It is found that the complainant subsequently emailed the respondents, stating that he was not satisfied with the response described in paragraph 3, above, and that he continued to

¹ By motion dated and filed on April 16, 2024, the respondents moved to dismiss the complaint in this matter. Such motion was denied by the hearing officer on April 16, 2024.

seek the “number of hours and days worked” for each of the members of the respondent Board of Directors for the month of September 2023.

5. By complaint filed December 11, 2023, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act. Specifically, the complainant alleged that the respondents denied his request for:

- (a) the number of hours worked by the respondent Board of Directors for the month of September; and
- (b) information regarding “any member [who] was present on Sept[ember] 12, 2023.”

6. 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.

7. 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.

8. 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.”

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

10. At the hearing, the respondents contended that they provided all records responsive to the request described in paragraph 2, above, to the complainant. They also contended that they did not receive a request for the records described in paragraph 5(b), above, from the complainant, and therefore, they did not deny such request within the meaning of §1-206(b)(1), G.S.

11. The respondent Chief Executive Officer appeared and testified at the hearing in this matter. With respect to the request for the hours worked by the respondent Board of Directors for

the month of September 2023, as described in paragraphs 2 and 5(a), above, based on the credible testimony of the respondents' witness, it is found that the respondents do not maintain any records responsive to the complainant's request.

12. With respect to the allegation that the respondents violated the FOI Act by denying the request described in paragraph 5(b), above, §1-206(b)(1), G.S., provides, in relevant part, that “[a]ny person denied the right to inspect or copy records under section 1-210 ... may appeal therefrom to the [FOI] Commission, by filing a notice of appeal with said commission. A notice of appeal shall be filed not later than thirty days after such denial....”

13. At the hearing, the complainant presented no evidence to establish that he made a request to the respondents for the records described in paragraph 5(b), above, and that such request had been denied within thirty days of the filing of the complaint in this matter, as required by §1-206(b)(1), G.S. Instead, the complainant argued that the request, described in paragraph 5(b), above, constituted a narrowing of the request described in paragraph 2, above. However, such contention is unavailing, as the request described in paragraph 5(b), above, is not within the scope of the request described in paragraph 2, above.

14. Consequently, it is found that, at the time of the complaint, the respondents had not received a request for the information described in paragraph 5(b), above, and therefore had not denied such request, within the meaning of §1-206(b)(1), G.S. Because there was no denial at the time of the complaint, it is concluded that the respondents did not violate the FOI Act with respect thereto.

15. Notwithstanding the conclusion in paragraph 14, above, at the hearing, the respondents' witness credibly testified that the respondents do not maintain any record responsive to the alleged request described in paragraph 5(b), above, and that the only meeting of the respondent Board of Directors that convened during the month of September 2023 occurred on September 27, 2023. The respondents also provided the complainant with a copy of the minutes of the September 27, 2023 meeting.

16. Based on all of the foregoing, it is concluded that the respondents did not violate the disclosure provisions of 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 October 23, 2024.



Molly 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:

MICHAEL MOURNING, 259 Oakville Avenue, Apt. B-5, Waterbury, CT 06708

CHIEF EXECUTIVE OFFICER, HOUSATONIC AREA REGIONAL TRANSIT DISTRICT; CHAIR, BOARD OF DIRECTORS, HOUSATONIC AREA REGIONAL TRANSIT DISTRICT; BOARD OF DIRECTORS, HOUSATONIC AREA REGIONAL TRANSIT DISTRICT; AND HOUSATONIC AREA REGIONAL TRANSIT DISTRICT,
c/o Attorney Mark J. Sommaruga, Pullman & Comley LLC, 90 State House Square, Hartford, CT 06103

Molly Steffes
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Acting Clerk of the Commission