

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Theresa Conroy,

Complainant

against

Docket #FIC 2023-0678

Mayor, City of Ansonia,
and City of Ansonia,

Respondents

October 23, 2024

The above-captioned matter was heard as a contested case on June 3, 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, by letter dated September 22, 2023, the complainant sent the following request to the respondents:

...I am requesting an opportunity to inspect or obtain copies of the contract between the City of Ansonia and W. Kurt Miller relative to his position as Comptroller, or related title for the City of Ansonia, and any other documents that show the salary and benefits, including amounts if available, for this position, along with dates of employment....

3. It is found that, by letter dated September 25, 2023, the respondents acknowledged the complainant's request.

4. It is found that, by email dated December 8, 2023, the complainant corresponded with the respondents, noting that it had been two months since the respondents had acknowledged her request. It is further found that the complainant requested that the respondents provide her with a copy of the requested records by December 22, 2023, or provide her with an explanation as to why they could not provide her with the records by such date.

5. By email dated and filed December 27, 2023, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide her with access to the requested records.

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 are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

10. At the hearing, the complainant contended that, while she received a copy of the requested records on January 3, 2024, such records had not been provided to her promptly. The complainant requested at the hearing that the Commission consider the imposition of a civil penalty or some other remedy to address the respondents’ alleged promptness violation in this matter.

11. With regard to whether the respondents have acted promptly in responding to the instant request, this Commission has previously opined that the word “promptly” in §1-210, G.S., means “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 requester 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 loss of the personnel time involved in complying with the request.” See FOI Commission Advisory Opinion #51 (Jan. 11, 1982). The Commission also recommended in Advisory Opinion #51 that, if immediate compliance is not possible, the agency should explain the circumstances to the requester.

12. It is found that the complainant requested copies of basic employment records, consisting of a 10-page employment agreement and a 1-page addendum. It is further found that it took the respondents 123 days to provide copies of such records to the complainant.

13. It is found that, while the respondents contended that they had a strict policy of satisfying FOI requests on a “first-in-first-out” basis and that, at the time they received the request set forth in paragraph 2, above, they were processing multiple, previously received requests, the evidence they submitted to substantiate such contentions fell short. Based on the respondents’ documentary evidence, it is found that at least one request which was received by the respondents after the complainant’s request was satisfied prior to the complainant’s request.¹ It is further found that the respondents failed to establish how many requests were pending at the time they received the complainant’s request.

14. Based on the complainant’s very limited, straightforward request for records in this case, and on the fact that it took the respondents over four months to provide the complainant with eleven pages of responsive records, it is found that the respondents violated the promptness requirements of §§1-210(a) and 1-212(a), G.S.

15. The Commission, in its discretion, declines to impose a civil penalty in this case.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. The respondents shall strictly comply with the promptness requirements of §§1-210(a) and 1-212(a), G.S.
2. Forthwith, the respondents, or their designee, shall arrange for a FOI training session to be conducted by the staff of the FOI Commission. The respondents, or their designee, shall forthwith contact the FOI Commission to schedule such training session.

Approved by Order of the Freedom of Information Commission at its regular meeting of October 23, 2024.



Molly Steffes
Acting Clerk of the Commission

¹ The Commission cautions the respondents that, even if they had established that they adhere to a strict policy of processing FOI requests on a first-in-first-out basis, they could still be found to be in violation of the promptness requirements of §§1-210(a) and 1-212(a), G.S. See, e.g. Cushman v. Police Dep’t, City of Hartford, et al., Docket #FIC 2023-0220 (April 24, 2024) (concluding that the respondents violated the promptness requirements of the FOI Act, even though they established at the hearing that they process FOI requests in the order in which they are received).

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:

THERESA CONROY, 177 Skokorat Street, Seymour, CT 06483

MAYOR, 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 Steffes
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Acting Clerk of the Commission