

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by)

Connecticut Association of) Report of Hearing Officer
Health Care Facilities, Inc.,)
and Stephen E. Ronai,) Docket #FIC76-154
Complainants)

against) October 20, 1976
)

State of Connecticut; and)
Committee on State Payments to)
Hospitals, Respondents)

The above captioned matter was heard as a contested case on September 8, 1976, at which time the complainant and the respondents appeared and presented testimony, exhibits, and argument on the complaint.

After consideration of the entire record, the following facts are found:

1. The respondents are public agencies as defined by §1(a) of P.A. 75-342.

2. On August 17, 1976, complainant Ronai requested information relative to a new cost related reimbursement formula which the respondent committee is implementing in the process of setting new hospital rates.

3. Having failed to receive a response within four business days, the complainants filed the present appeal with this Commission on September 3, 1976.

4. At the hearing on this complaint, it was disclosed that the respondent committee has in its possession documents which fall within the request of the complainant Ronai.

5. Complainant Ronai represents several health care facilities in a civil action brought against the respondent in the Court of Common Pleas for Hartford County. The aforesaid action involves the alleged failure by the respondent committee to set its rates by June of 1975, and its allegedly having set two rate schedules in a single year, contrary to law.

6. The respondents contend that the requested records are exempt from disclosure pursuant to §2(b)(1) and 3(3) of Public Act 75-342. These claims of exemption will be treated seriatim below.

7. It is found that the requested documents are not preliminary drafts or notes within the meaning of §2(b)(1) of Public Act 75-342. Nothing in the record shows that these documents are anything but final drafts, submitted through official channels, concerning the proposed implementation of the new cost related reimbursement formula.

8. It is also found, however, that the requested documents are so intricately related to the subject matter of existing litigation involving respondents as to be deemed to affect the rights of litigants under the laws of discovery of this state. This Commission will not be placed in the position of being used as a mechanism for obtaining discovery in lieu of courts of competent jurisdiction. This is clearly the legislative intent behind §3(3) of Public Act 75-342. The requested documents are therefore exempt from disclosure under §3(3) of Public Act 75-342.

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

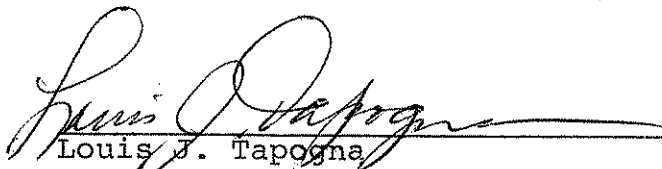
1. The complaint is hereby dismissed.



Commissioner Helen Loy

as Hearing Officer

Approved by order of the Freedom of Information Commission on October 27, 1976.



Louis J. Tapogna
as Clerk of the Commission