

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Jean Hegeman, William E. LaFontaine,
Frederick Canevari and William
Chang,

Complainant

against

City and Town of Norwalk and
Third Taxing District of the
City and Town of Norwalk,
Respondents

Report of Hearing Officer

DOCKET #FIC76-219

August 11, 1980


On March 13, 1980 in its decision in Docket No. 140206 the Superior Court, Judicial District Hartford/New Britain remanded #FIC76-219, Jean Hegeman et al v. Freedom of Information Commission, for further hearing. The hearing was scheduled for July 1, 1980 at which time the hearing was continued by agreement while the parties attempted to negotiate a settlement.

On July 18, 1980 the parties reported an agreement which is summarized as follows:

1. The complainants will be permitted to review the checkbooks of the Taxing District for the years 1974, 1975, and 1976 in the presence of counsel, with the understanding that payroll deductions will not be available for inspection.
2. The complainants will be provided with rate cards showing the rates of all persons receiving electrical power from the Taxing District upon request.
3. Information relating to the now terminated litigation concerning the purchase of power from CL&P for the years 1974, 1975, and 1976 will be made available to the complainants.

The following order by the Freedom of Information Commission is hereby recommended on the basis of the entire record:

1. The foregoing agreement is hereby adopted as an order of the Commission.



Commissioner Helen M. Loy
as Hearing Officer

Approved by order of the Freedom of Information Commission on August 27, 1980.

A handwritten signature in cursive script, appearing to read "Leslie Ann McGuire", written over a horizontal line.

Leslie Ann McGuire
Clerk of the Commission

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by)
Jean Hegeman, William E. LaFontaine,) Report of Hearing Officer
Frederick Canevari and William)
Chang, Complainant) Docket #FIC76-219
)
against) April 27, 1977
)
City and Town of Norwalk and)
Third Taxing District of the)
City and Town of Norwalk,)
Respondents)

The above captioned matter was heard as a contested case by Commissioner Herbert Brucker as Hearing Officer on January 25, 1977, at which time the complainants and the respondent taxing district appeared and presented testimony, exhibits and argument on the complaint. Since the presentation of evidence was not completed on the aforesaid date, by agreement of the parties, the proceedings were continued to April 19, 1977. Due to the intervening death of Commissioner Brucker, Commissioner Helen M. Loy heard the above captioned matter as Hearing Officer on April 19, 1977. Because the undersigned Hearing Officer was not present during the former proceedings the parties were permitted to present their entire case ab initio on the latter date; but for purposes of administrative convenience, the record of the proceedings from January 25, 1977 will also constitute a portion of the record herein.

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

1. The respondent taxing district is a public agency within the meaning of §1-18a(a), G.S.
2. By letter dated November 22, 1976 addressed to the chairman of the respondent taxing district commission, the complainants requested the opportunity to inspect and make necessary copies of certain documents described in nine numbered paragraphs of said letter.
3. By letter dated November 29, 1976 addressed to complainant LaFontaine, the chairman of the respondent taxing district commission informed the complainants that the matter of their request would be considered at the next subsequent meeting of the aforesaid commission scheduled for December 13, 1976.

4. The complainants, having treated the letter of November 29, 1976 as a denial of their request pursuant to §1-21i(a), G.S., filed the present complaint with this Commission on December 13, 1976.

5. The respondent taxing district contends that the letter of November 29, 1976 does not constitute a denial of the complainants' request herein since it informed the complainants that a decision upon their request would be undertaken on December 13, 1976, the next meeting date of the governing body of the respondent taxing district. The respondent taxing district therefore maintains that this complaint was instituted prematurely and consequently this Commission lacks jurisdiction to entertain same.

6. §1-21i(a), G.S., states that a failure to comply with a request to inspect or copy public records within a four business day period shall be deemed to be a denial of such rights. No exception is provided in cases where the governing body of a public agency meets beyond such four day period. To the contrary, a major premise of P.A. 75-342, as codified in Chapter 3 of the General Statutes, is to provide for timely compliance with requests for public records and for rapid determinations of denials of such requests.

7. It is therefore concluded that the complaint herein was timely filed pursuant to §§1-21i(a) and (b) and that this Commission has jurisdiction over same.

8. The respondent taxing district contends that the requested documents described in paragraphs 1, 3, 5, 6 and 9 of the complaint are not sufficiently delineated so as to constitute a proper request with which it can reasonably comply.

9. It is found that the requested documents described in paragraphs 1, 3, 5, 6 and 9 of the complaint are sufficiently delineated so that the respondent taxing district can reasonably comply therewith. In this regard, it is further found that the complainants' request is to inspect certain documents and to copy only those such documents which they then deem necessary. Since it is apparent that the complainants would be present during such an inspection, they would be able to clarify at that time any ambiguity concerning which documents they wish to inspect or copy.

10. It is also found that the documents described in paragraph 1 of the complaint are public records within the definition of that term in §1-18a(d), G.S., except such records which specifically relate to the payroll deductions of identified or identifiable past or present employees of the respondent taxing district, and except such records which are maintained solely in designated personnel files kept by the respondent taxing district in the ordinary course of its business.

11. It is also found that the documents described in paragraphs 2, 4 and 7 of the complaint are public records within the definition of that term in §1-18a(d), G.S.

12. It is also found that the documents described in paragraph 3 of the complaint, which show only the electrical rates for all persons receiving electrical power from the respondent taxing district's electrical department for the years 1974, 1975 and 1976, are public records within the definition of that term in §1-18a(d), G.S.

13. It is also found that the documents described in paragraph 5 of the complaint, which show only the names and addresses of the respondent taxing district's past and present commissioners and employees who received from such district electrical or telephone service at no cost for the years 1974, 1975 and 1976, are public records within the definition of that term in §1-18a(d), G.S., except such records which are maintained solely in designated personnel files kept by the respondent taxing district in the ordinary course of its business.

14. It is also found that the documents described in paragraph 6 of the complaint, which show only the dollar value of the electrical or telephone service received by the persons identified in paragraph 13, above, are public records within the definition of that term in §1-18a(d), G.S., except such records which are maintained solely in designated personnel files kept by the respondent taxing district in the ordinary course of its business.


15. It is also found that of the documents described in paragraph 8 of the complaint, only the records which relate to the "R-2" rate are public records within the definition of that term in §1-18a(d), G.S. It is further found that the records relating to the remaining rates - i.e., "R-1" and "R-3" - are exempt from disclosure pursuant to §1-19(b)(3), G.S., since the respondent taxing district is a party to pending litigation concerning the subject of the latter two rates.

16. It is also found that the documents described in paragraph 9 of the complaint are public records within the definition of that term in §1-18a(d), G.S., except such records as specifically relate to the pension fund benefits or deductions of identified or identifiable past and present employees of the respondent taxing district, and except such records which are maintained solely in designated personnel files kept by the respondent taxing district in the ordinary course of its business.

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

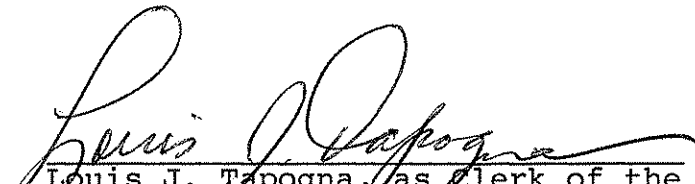
1. The respondent taxing district shall forthwith provide the complainants with access to inspect or copy all documents described in their letter of complaint, not already provided, to the extent that such documents have been found hereinabove to be public records and not exempt from public disclosure.

2. Henceforth the respondent taxing district shall, pursuant to §1-21i(a), G.S., notify in writing, within a period of four business days, every person requesting access to inspect or copy public records within its custody or control of its decision to deny such request.



Commissioner Helen M. Loy
as Hearing Officer

Approved by order of the Freedom of Information Commission on May 11, 1977.



Louis J. Tapogna, as Clerk of the
Freedom of Information Commission