

Freedom of Information Commission
of the State of Connecticut

In the Matter of a Complaint by)
Robert L. Caulfield, Complainant) Report of Hearing Officer
against) Docket #FIC 76-4
Town of New Canaan and)
Henry Noble as First Selectman) February 26, 1976
of the Town of New Canaan,
Respondents)

The above captioned matter was heard as a contested case on February 18, 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 complainant has brought two complaints against the respondents which were consolidated for hearing and will be treated in succession hereinafter.

2. The respondents are public agencies as they are the Town of New Canaan and the First Selectman of the Town of New Canaan.

3. On January 15, 1976, the complainant requested a plain (uncertified) copy of two documents consisting of a set of the Rules of Procedure of the New Canaan Town Council and a letter dated January 5, 1976 from the respondent First Selectman to Yorke Allen, Jr., Chairman of the Town Council, concerning funds available for special appropriation. Both documents total 6 pages.

4. The requested documents are public records as defined in P.A. 75-342.

5. The respondent First Selectman required the complainant to pay \$1.00 per page or a total of \$6.00 for a copy of the requested documents. The complainant paid this amount under protest and received a copy of the requested documents.

6. By letter dated January 29, 1976, the complainant appealed to this Commission from the respondents' charge for a copy of the public record as stated above.

7. On the basis of the evidence the respondents offered, it is found that the cost to the public agency for the preparation of a copy of the public record requested was no greater than 6.5 cents per page for the use of the copying machine and the materials consumed in the copying. The cost of the services of the employee operating the machine was no greater than 11 cents per minute of operation.

8. The respondents offered an estimate of the average cost of retrieval, handling and refiling, which was computed on the basis of ten minutes of personnel time. No evidence was offered as to the actual time consumed or any other comparable cost to the public agency for this specific transaction.

9. In this instance there were in all two documents that were copied, not six. So there would logically not have been six items to be retrieved.

10. It follows that the respondents have not proven the cost to the public agency to have exceeded 6.5 cents per page for the materials and equipment use consumed plus the cost for a few minutes of the time of the machine operator at a rate not in excess of 11 cents per minute for copying six pages.

11. It is concluded that the flat rate of \$1.00 per page for the copying of a public record so far exceeds the cost to the public agency as to constitute a deprivation of access within the prohibition of Sec. 14 of P.A. 75-342.

12. By his further request dated January 19, 1976, and addressed to the respondents the complainant requested the respondent public agency to furnish to the New Canaan Public Library a copy of various public records relating to future meetings of the Board of Finance and of the Town Council of the Town of New Canaan. The Library is a private institution.

13. To the extent that such a request refers to public records not yet in existence it is not within the provisions of P.A. 75-342.

14. In so far as the complainant makes this as a request for the Library and not in his own behalf, there is no provision in P.A. 75-342 for him to enforce the rights of another as a volunteer.

15. In the event the complainant desires to make a gift to the Library, he is entitled to arrange for notices and the other requested documents to be sent to the Library at his own expense under Sec. 7 of P.A. 75-342.

The following order by the Commission is hereby recommended on the basis of the record concerning the complaints in the above matters:

1. The respondents are directed to recompute the cost to the Town of New Canaan to copy the public records on the basis of the cost to the public agency, which shall in this case include only the actual cost of the materials and the use of the copying machine, plus the time consumed by the operator of the copying machine in copying such public records.

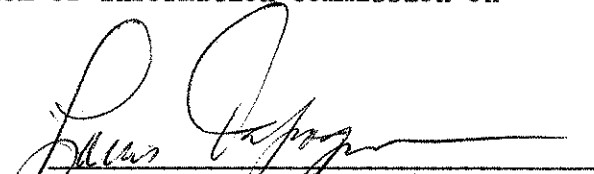
2. The respondents shall forthwith cause the Town of New Canaan to remit to the complainant any amount that was received for such copy of the public record that shall exceed the cost to the public agency, as computed in accordance with paragraph 1 of this order. When that remittance has been completed the respondents shall notify this commission in writing of the amount refunded.



Commissioner Helen Loy

as Hearing Officer

Approved by order of the Freedom of Information Commission on March 10, 1976.


Louis Tapogna, Clerk of the
Commission