

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Brian W. Poirier,

Complainant

Report of Hearing Officer

against

Docket #FIC78-100

Banking Department of the
State of Connecticut; and
Banking Commissioner of the
State of Connecticut,
Respondents

November 21, 1978

The above captioned matter was heard as a contested case on October 3, 1978, at which time the complainants 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 within the meaning of §1-18a(a), G.S.
2. The complainant requested samples of disclosure statements as required by Conn. Gen. Stats. §36-393, et seq. in two letters dated April 10, 1978 which were directed to the respondent commissioner.
3. In one of the aforesaid letters the complainant requested copies of samples of disclosure statements collected by the respondent commissioner on his department's own initiative.
4. In the other letter the complainant requested copies of disclosure statements which had come into the complainant's possession as a result of unsolicited requests from the public for advice pursuant to Conn. Gen. Stats. §§36-395 and 407(f) and the regulations promulgated thereunder.
5. The respondent commissioner denied the complainant's requests by letter dated April 21, 1978.
6. The respondents claimed that release of copies of all disclosure statements in their possession is prohibited by §36-16, G.S. and §1-19(a), G.S. read together.
7. §1-19(a), G.S. provides for an exception to disclosure of public records where "otherwise provided by federal or state statute."
8. Most of the disclosure forms, either filled out or blank, which are retained by the respondents are gathered by the respondent commissioner or his employees as part of the examinations required and authorized by §36-15, G.S.

9. §36-15, G.S. provides in relevant part that the respondent commissioner or employees of the respondent department conduct examinations of lending institutions "to ascertain whether its business has been managed according to law and to obtain information concerning its affairs as may be necessary for the commissioner to perform properly his duties in office."

10. The respondents obtain blank disclosure forms in the normal course of their examination of lending institutions in order to determine whether the institutions are complying with the requirements of the Truth in Lending Act as codified in Chapter 657 of the General Statutes.

11. Where the respondents are investigating suspected bad practices they sometimes obtain filled out disclosure forms.

12. §36-16, G.S. provides that

All information obtained by the commissioner or by any member of the banking department shall be confidential except such as should, in the opinion of the commissioner, be imparted in the performance of official duties.

13. It is found that the language "all information obtained by the commissioner or any member of the banking department" in §36-16, G.S. refers to information obtained by the respondent commissioner or his employees in the course of examinations conducted pursuant to authority granted in §36-15, G.S.

14. It is concluded that the disclosure forms, whether blank or filled out, which are obtained by the respondents in the course of such examinations of lending institutions constitute information which is exempted from disclosure by §36-16 and §1-19(a), G.S. read together.

15. However, some disclosure forms which are maintained by the respondent department are voluntarily submitted to it when, for example, the advice of the respondent commissioner is sought concerning whether or not a given form complies with the law.

16. It is concluded that those disclosure forms which have been voluntarily submitted to the respondents are not exempted from disclosure by §36-16 and §1-19(a), G.S, because they are not information obtained by the commissioner pursuant to examinations authorized by §36-15, G.S.

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

1. The respondents shall forthwith disclose to the complainant copies of the disclosure forms which have been submitted to it voluntarily and/or as a result of requests from the public for advice..

Judith Lahey
Commissioner Judith Lahey

as Hearing Officer

Approved by order of the Freedom of Information Commission on
December 13, 1978.

Charlene G. Arnold
Charlene G. Arnold
Clerk of the Commission