

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by )  
John A. McManus, )  
Complainant ) Report of Hearing Officer  
against ) Docket #FIC78-118  
Town of Southington; and the ) September 27, 1978  
Zoning Enforcement Officer of )  
the Town of Southington; and )  
the Building Inspector of the )  
Town of Southington, )  
Respondents )

The above captioned matter was heard as a contested case on August 29, 1978 at which time the complainant and the respondents appeared, stipulated to certain facts, and presented testimony 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. By letter to the town manager of the respondent town dated June 8, 1978, the complainant herein requested certain information relating to a zoning complaint brought against the water department of the city of New Britain.

3. The water department of the city of New Britain has an address within the respondent town. Its building and premises are therefore subject to the zoning regulations of the respondent town.

4. The requested information was denied by the respondent zoning officer by letter dated June 14, 1978.

5. Such denial was authorized by the building inspector of the respondent town, who is the respondent zoning officer's supervisor.

6. From such denial, the complainant filed the present appeal with the Commission on June 26, 1978.

7. The complainant is here seeking a copy of the written record of the aforesaid zoning complaint. Such record was prepared by the respondent zoning officer.

8. The complainant is further seeking the identity of the person bringing the zoning complaint.

9. The records in issue are kept and maintained by the building department of the respondent town.

10. The respondents contend that because zoning regulation violations may sometimes be enforced by criminal prosecution under §8-12, G.S., the aforesaid records are exempt from disclosure under §1-19(b)(3), G.S. as records compiled in connection with the detection or investigation of crime.

11. There are two types of enforcement proceedings that may be brought under §8-12, G.S.: (1) civil action; (2) criminal prosecution if the zoning violation is wilful.

12. The nature of the complaint in question concerns whether the parking of heavy equipment and the outside storage of material, such as pipes, was a permitted use in that zone. There was no evidence that the alleged violations were wilful.

13. Consequently, the respondents did not prove that the records here in issue concern an investigation into a complaint which alleges a criminal violation of the respondent town's zoning regulations and ordinances.

14. It is therefore concluded that such records were not compiled in connection with the detection or investigation of crime within the meaning of §1-19(b)(3), G.S.

15. In the absence of any applicable exemption to disclosure, such records are found to constitute public records as defined by §§1-18a(d) and 1-19(a), G.S.

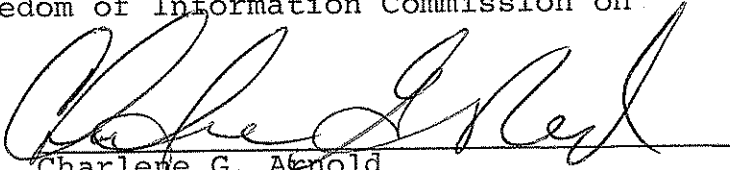
The following order by the Commission is hereby recommended on the basis of the record concerning the above captioned complaint:

1. The respondents shall forthwith provide the complainant with copies of the records identified in paragraphs 7 and 8 of the findings hereinabove.

  
Commissioner John Rogers

as Hearing Officer

Approved by order of the Freedom of Information Commission on  
October 11, 1978.

  
Charlene G. Arnold  
Clerk of the Commission