

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by,
Christina M. Storm, Esq.
Complainant

Final Decision

against

Docket #FIC78-190

City and Town of Bristol; Public
Works Department of the City and
Town of Bristol; and Director of
Public Works Department of the
City and Town of Bristol,
Respondents

January 24, 1979

The above captioned matter was heard as a contested case on November 9, 1978, 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 within the meaning of §1-18a(a), G.S.
2. The complainant is a member of the law firm Storm & Storm.
3. On May 3, and May 8, 1978 the complainant's law firm made written requests for inspection of certain records of the respondents.
4. On September 13, 1978 the complainant renewed all prior requests with a letter to the respondent public works department.
5. On October 3, 1978 the complainant filed her appeal with the Freedom of Information Commission.
6. At hearing it was argued that the complainant's request for inspection of records includes the following:
 - a) all records which relate to all construction, repairs, maintenance, sewer installation, and drain installations performed upon Wolcott Street, particularly that portion extending from Fall Mountain Road on the north to Peck lane on the south;
 - b) the sewer contract for sewer construction on the westerly portion of Wolcott Street, particularly that section of Wolcott Street east of Witches Rock Road and west of Peck Lane;
 - c) records of test borings conducted on Wolcott Street as above described and performed in connection with sewer construction;

d) logs of blasting inspections on Wolcott Street as above described and performed in connection with sewer construction -- particularly to the extent that said inspections reveal quantities of bed rock in that area;

e) road survey of Wolcott Street as above described;

f) design drawings for curb and shoulders on Wolcott Street as above described;

g) records of complaint and/or petitions which have been filed with the city with respect to items pertaining to Wolcott Street and its bounds and walls which items are mentioned in the letter of September 13 and limited to the area of Wolcott Street, particularly that portion extending from Fall Mountain Road on the north to Peck Lane on the south.

7. The complainant represents the administratrix of the estate of Gary Delfino.

8. Gary Delfino was fatally injured on March 25, 1978 when a truck he was driving slid off Wolcott Street into a rocky ravine.

9. §13a-149, G.S. sets forth a precondition for recovery of damages from a party bound to keep roads and bridges in repair that the party give written notice of the injury with respect to which the claim for damages arises and a general description of the same and certain other facts within ninety days of the occurrence to the town clerk.

10. The administratrix of the estate of Gary Delfino has filed a notice of claim with the respondent town clerk setting forth facts pertaining to the accident which fatally injured Gary Delfino pursuant to the requirements of §13a-149, G.S.

11. There is no lawsuit filed in any court which relates to the notice of claim filed by the administratrix of the estate of Gary Delfino against the respondents pursuant to the requirements of §13a-149, G.S.

12. The respondents alleged by way of defense that the requested records are exempted from disclosure by §1-19(b)(4), G.S.

13. Most of the records requested by the complainant have to do with the construction and design of Wolcott Street.

14. Most if not all of the records requested by the complainant have been retained in the files of the respondents before March 25, 1978, the date upon which Delfino was fatally injured.

15. It is found that the requested records are not records pertaining to strategy and negotiations with respect to pending claims and litigation to which the public agency is a party within the meaning of §1-19(b)(4), G.S.

16. It is concluded, therefore, that the requested records are public records within the meaning of §1-18a(d), G.S. which are not exempted from disclosure by any of the exemptions set forth at §1-19(b), G.S.

17. The respondents alleged by way of further defense that the requested records are exempted by §1-19b(3), G.S.

18. The respondents failed to prove that they or the complainant or her client, the administratrix of the estate of Gary Delfino, was a litigant within the meaning of §1-19b(3), G.S.


19. It is further found that §1-19b(3), G.S. does not deprive litigants of rights of access to public records which are otherwise available to persons as defined by §1-18a(c), G.S.

20. It is concluded, therefore, that the requested records are subject to disclosure under §1-15 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 access to the records which she seeks to inspect and which are described at paragraph 6 (a) through (g).

Approved by order of the Freedom
of Information Commission on
January 24, 1979.



Leslie Ann McGuire
Acting Clerk of the Commission