

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Ann Della Camera,

Complainant

against
City and Town of East Haven;
Director of Board of Finance of
East Haven; and Board of Finance
of East Haven,

Respondents

Report of Hearing Officer

Docket #FIC81-27

July 22, 1981

The above-captioned matter was heard as a contested case on June 16, 1981, at which time the complainant and the respondents appeared, stipulated to certain facts, 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 as defined by §1-18a(a), G.S.

2. By letter filed with this Commission on February 6, 1981, the complainant alleged that at a time and place unknown, various town officials met to discuss a change in the format of the town audit without inviting the town council, of which she is a member, to attend. Complainant contended that as an "appointing authority" pursuant to Connecticut General Statutes §7-391, the town council should have been invited to such discussion.

3. The complainant also alleged that at a meeting held by the respondent board on January 21, 1981, the respondent director refused her request for a line by line breakdown of the 1979-1980 Audit Report.

4. The complainant further alleged that even though the respondent director had previously indicated that the records the complainant sought were on file and could be viewed, he denied her request to inspect them at his office on January 28, 1981.

5. At the hearing before the Commission, the complainant stated that she had unsuccessfully sought to view the records in question on numerous occasions.

6. It is found that the portion of the complaint, described above in paragraph 3, as drafted, does not allege a violation of the Freedom of Information Act.

7. At the hearing, the complainant explained that she meant to claim in that portion of her complaint that the alleged gathering constituted a meeting of a public agency to which she was improperly denied notice and access, in violation of §1-21, G.S.

8. It is found that the portion of the complaint described above in paragraph 2, as drafted, did not provide the respondents with sufficient notice to enable them to prepare a defense to the claim described in the preceding paragraph.

9. Moreover, complainant failed to establish that the alleged meeting had taken place.

10. With respect to the allegation described above in paragraph 3, it is found that the respondent director's failure to interrupt a public meeting in order to provide the complainant with the records she requested did not violate the requirements of §§ 1-15 and 1-19(a), G.S., which provide only for inspection or copying of public records during regular office or business hours.

11. With respect to the allegation described above in paragraph 4, it is found that on January 28, 1981, the respondent director was working on, but had not yet completed, a line by line analysis of the 1979-80 audit.

12. As of January 28, 1981, portions of the analysis were in near-final form, parts had been entered into a computer, and the remaining data necessary to complete the analysis were on ledger cards.

13. On January 28, 1981, the complainant asked the respondent director to let her inspect the line by line analysis of the 1979-80 audit.

14. The director responded by stating that the analysis was not complete and that it was not on paper.

15. The complainant then showed the respondent director the minutes of a town council meeting which indicated that he had stated on January 21, 1981, that the line items were on file and available for inspection by the council.

16. It is found that by showing the respondent director the minutes, the complainant was requesting the right to inspect whatever materials the director had on file at that time.

17. After the complainant showed him the minutes, the respondent director knew or should have known that the complainant wanted to inspect whatever line item materials he had available.

18. The respondent director did not allow the complainant to inspect the ledger cards or to view any of the data he had compiled in the process of completing the line by line analysis; he did not even tell her that such materials existed.

19. The respondents make no claim that the materials sought by the complainant are exempt from disclosure.

20. The respondent director claims that he decided not to allow the complainant to view the available material or even to tell her of its existence first, because he decided the complainant would not want to inspect data that had not been completely verified for accuracy; second, because the complainant was a member of the town council and mayoral candidate who therefore, in his opinion, should be given only verified data; and third, because he did not believe the complainant would understand the ledger cards.

21. It is found that by making the complainant's decisions for her, the respondent director deprived the complainant of her prerogative to determine what public records she would like to view, what kind of data she would like to inspect, and what materials she could understand.

22. It is concluded that the respondent director violated §§ 1-15 and 1-19, G.S., by failing to allow the complainant to inspect the materials he had available on January 28, 1981, regarding the line item analysis of the 1979-80 audit.

23. The complainant asks the Commission to order the respondent to provide her with a line by line analysis of the 1979-80 audit, certified for accuracy by the town auditors.

24. It is found that the town has no line by line analysis in its custody that has been certified by the town auditors.

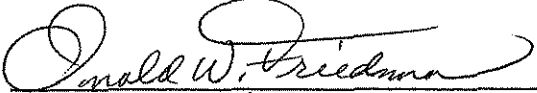
25. It is further found that although §1-15, G.S., requires public agencies, upon request, to certify copies of public records for genuineness, the Freedom of Information Act does not require public agencies to have data in their records certified for accuracy by auditors.

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

1. Those counts of the complaint described above in paragraphs 2 and 3 are hereby dismissed.

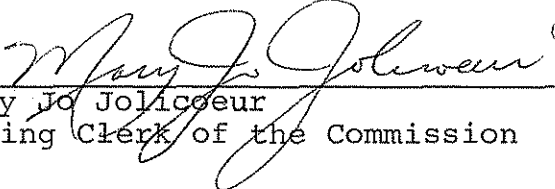
2. Upon request, the respondent director shall provide the complainant with any nonexempt records in his custody pertaining to the line item analysis of the 1979-80 audit of the respondent town.

3. Henceforth, the respondent director shall comply with the provisions of §§ 1-15 and 1-19(a), G.S.



Donald W. Friedman
as Hearing Officer

Adopted by order of the Freedom of Information Commission
at its special meeting of August 24, 1981.



Mary Jo Jolicœur
Acting Clerk of the Commission