

FREEDOM OF INFORMATION COMMISSION OF  
THE STATE OF CONNECTICUT

In the Matter of a Complaint by  
Rita Jensen, The Advocate, Stamford,

Report of Hearing Officer

Complainant

Docket #FIC81-115

against

November 2, 1981

City and Town of Stamford

Respondent

The above captioned matter was heard as a contested case on September 28, 1981, at which time the complainant and the respondent appeared, stipulated to certain facts and presented exhibits and argument on the complaint.

After consideration of the entire record, the following facts are found:

1. The respondent is a public agency as defined by § 1-18a(a), G.S.
2. By letter dated July 2, 1981, the complainant requested of the respondent, through its corporation counsel, the opportunity to inspect and photocopy "any and all transcripts of depositions . . . which have been taken in the lawsuits involving the City of Stamford and Flintkote/Campanella or Hayden, Harding and Buchanan or any other litigant involved in this litigation which is pending in the United States District Court, District of Connecticut."
3. By letter dated July 8, 1981, the respondent, through its corporation counsel, denied the complainant's request for transcripts of depositions.
4. The complainant filed a complaint with the Commission on July 20, 1981, asserting that the respondent's denial of her request was "arbitrary, capricious and contrary to law."
5. It is found that the transcripts requested by the complainant are in the possession, custody and control of special counsel to the respondent.
6. It is found that when acting in its capacity as such, special counsel to the respondent is itself a public agency of the respondent within the meaning of § 1-18a(a), G.S.
7. It is therefore found that the transcripts requested by the complainant are public records prepared, owned, kept and maintained by the respondent within the meaning of §§ 1-18a(d) and 1-19a(a), G.S.

8. The respondent made a motion claiming that the Commission lacked jurisdiction because it failed to hear the matter within twenty days after receipt of the complaint as required by § 1-21i(b), G.S.

9. It is found that these requirements of § 1-21i(b), G.S., are directory and not mandatory and that, therefore, the Commission has jurisdiction over the complaint.

10. It is further found that the respondent failed to prove that it was prejudiced in any way by the Commission's failure to hear this matter within 20 days of the complaint.

11. The respondent claims that Local Rule 8(b) of the United States District Court for the District of Connecticut exempts the deposition transcripts from disclosure by operation of § 1-19(a), G.S.

12. It is found that Local Rule 8(b) prohibits only the release of deposition transcripts by clerks of the U.S. District Court, and in no way prohibits the release of such transcripts by parties to the underlying litigation.

13. It is also found that no other portion of Rule 8 prohibits the release of the requested deposition transcripts by parties to the underlying litigation.

14. It is further found that the language of Local Rule 8(b) is directed only toward clerks of the U.S. District Court.

15. It is therefore found that no conflict arises between the Connecticut federal court's Local Rule 8(b) and Connecticut's Freedom of Information Act.

16. The respondent contends that § 1-19(b)(4), G.S., exempts the requested transcripts from disclosure.

17. It is found, however, that the respondent failed to prove that the requested transcripts are in any way related to strategy or negotiations in pending litigation within the meaning of § 1-19(b)(4), G.S.

18. The respondent claims that deponents relied upon representations that the depositions were private proceedings.

19. It is found that the respondent failed to prove any deponent's reliance upon representations of privacy or confidentiality in the conduct of his or her deposition.

20. It is further found that the respondent failed to prove prejudice resulting from any alleged reliance upon representations of privacy or confidentiality.

21. The respondent claims that a compelling need for the requested documents is a precondition to the granting of relief to the complainant under the Freedom of Information Act.

22. It is found that an inquiry into the motives or needs of the complainant is irrelevant for the purposes of the Freedom of Information Act.

23. It is concluded that the respondent's failure to provide access to the deposition transcripts requested by the complainant constituted a violation of §§ 1-15 and 1-19, G.S.

24. Other issues raised both at the hearing and in briefs submitted by the parties, such as the possibility of a conflict between Local Rule 8 and the Federal Rules of Civil Procedure and the constitutionality of Local Rule 8, are not within the jurisdiction of the Commission and are not essential to the Commission's decision in this matter.


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

1. The respondent shall forthwith make available to the complainant for inspection and photocopying, any and all transcripts of the depositions as more fully described in paragraph 2 of the findings above.



Commissioner Donald Friedman  
as Hearing Officer

Approved by order of the Freedom of Information Commission  
at its regular meeting of November 25, 1981.



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Mary Jo Jolicoeur  
Clerk of the Commission