

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
John P. Ambrogio,

FINAL DECISION

Complainant

Docket #FIC83-24

against

July 22, 1983

State of Connecticut Board of
Firearms Permit Examiners,

Respondent

The above captioned matter was heard as a contested case on May 2, 1983, at which time the complainant and the respondent appeared and presented testimony, exhibits and argument on the complaint. Prior to the commencement of the hearing, the parties argued that the complainant's complaint would be withdrawn to the extent that it related to the records of Leonard A. Rizzo.

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

1. The respondent is a public agency within the meaning of §1-18a(a), G.S.
2. By letter dated January 25, 1983, the complainant received notice from the respondent that Marc J. Estra had entered an appeal with the respondent regarding the complainant's failure or refusal to issue to him a firearms permit. The respondent enclosed a questionnaire which it asked the complainant to complete and return to the respondent.
3. By letter dated January 28, 1983 the complainant made a request of the respondent for a copy of the appeal filed by Mr. Estra.
4. By letter dated February 1, 1983 the respondent informed the complainant that

"It is the Board's normal procedure not to disclose the complainant/appeal until after the forms which have been sent to both parties have been completed and returned to the Board.

As soon as the forms have been returned, we will provide you with a copy of the complaint/appeal letter if you request it.
5. By letter of complaint filed with the Commission on February 15, 1983 the complainant appealed the denial of this request.

6. On February 24, 1983 the respondent met and rendered a decision ordering the complainant to issue a gun permit to Marc J. Estra. The complainant did not attend the meeting of the respondent at which such decision was rendered.

7. At hearing the complainant requested that the February 24, 1983 decision of the respondent ordering the complainant to issue a gun permit to Marc J. Estra be declared null and void.

8. Also at hearing, the respondent entered a copy of the subject record as an exhibit, thereby making it available to the complainant.

9. The respondent claims that the questionnaires it issues are necessary to find out what actions an issuing authority has taken with respect to an application that it does not want the issuing authority's responses to be tainted by the information received by the respondent from the complaining party.

10. The respondent further claims that it did not deny access to the subject record, since the request for a copy of the complaint would have been granted had the questionnaire been filled out.

11. It is found, however, that nothing in the Freedom of Information Act permits a public agency to impose a precondition, such as the completion of a questionnaire, on the release of public records.

12. The respondent further claims that pursuant to §1-19b(b), G.S., access to a complaint before the respondent is through the laws of discovery, not through the Freedom of Information Act, and that completion of a questionnaire is part of the respondent's discovery procedure.

13. §1-19b(b), G.S. provides in pertinent part that

Nothing in sections 1-15, 1-18a, 1-19 to 1-19b inclusive, and §1-21 to 1-21k, inclusive, shall be deemed in any manner...to affect the rights of litigants, including parties to administrative proceedings, under the laws of discovery of this state.

14. It is found that the respondent failed to prove that disclosure of the subject record prior to the completion of the questionnaire would have affected the rights of any of the parties before the respondent under the laws of discovery of this state.

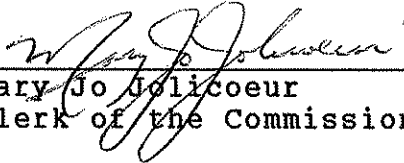
15. It is therefore found that §1-19b(b), G.S. did not permit the respondent to condition the release of the subject record upon the completion by the complainant of a questionnaire.

16. It is therefore found that the respondent violated §§1-15 and 1-19(a), G.S. when it imposed a precondition upon the release of the subject record, which precondition was not authorized by federal law or state statute.

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

1. Henceforth the respondent shall act in strict compliance with the requirements of §§1-15 and 1-19(b), G.S.

Approved by order of the Freedom of Information Commission at its regular meeting of July 13, 1983.



Mary Jo Golicoeur
Clerk of the Commission