

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Marcia A. Mangels and the Post
Publishing Company.

FINAL DECISION

Complainant

Docket #FIC85-20

against

Naugatuck Valley Public
Health District,

July 24, 1985

Respondent

The above captioned matter as heard as a contested case on April 19, 1985 at which time the complainants and the respondent appeared and presented testimony, exhibits and argument on the complaint.

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. In November of 1984 the respondent initiated testing of private wells in Shelton in areas served by groundwater. Test results indicated that five wells were contaminated with levels of benzene above the "state action level" of 1 part per billion.
3. By letter dated January 3, 1985 the complainants made a request of the director of the respondent for copies of "test results and names of homeowners in the Beardsley Road, Stendahl Drive area for drinking wells contaminated with concentrations of benzene in excess of 1 part per billion."
4. The complainants' request was denied on or about January 7, 1985 on the grounds that the contamination was still under investigation and that, in the opinion of the director of the respondent, "singling out homeowners may create an undue and unhealthful condition for the homeowners."
5. By letter of complaint filed with the Commission on January 31, 1985 the complainants appealed the denial of their request.
6. It is found that based on its initial detection of benzene the respondent continued its testing of wells in the area. The results of further tests by the respondent did not support a conclusion that a groundwater contamination problem existed.

7. A review by the State of Connecticut department of environmental protection of data submitted by the respondent did not confirm either the initial findings of contamination in the five wells or the existence of groundwater contamination in the areas of study.

8. On April 2, 1985, after retesting, the respondent recommended in a press release that the water in the area should be considered safe.

9. The respondent claims that when testing water, fluctuations can occur which would bring levels of contaminants in tested samples from below to above acceptable levels and that it is therefore inappropriate to make public the identities of persons whose wells are supposedly contaminated until final results are validated.

10. The respondent further claims that homeowners, fearing loss of property values and stigmatization, would not cooperate in testing procedures if they knew the results of testing would be made public.

11. The respondent also suggested that the information in question could conceivably be used in a criminal investigation, but provided no evidence to support such a claim.

12. It is found that notwithstanding the potential "stigma" alleged by the respondent, disclosure of the results of water testing would not constitute an invasion of personal privacy within the meaning of §1-19(b)(2), G.S.

13. It is also found that neither potential devaluation of property as a consequence of unfavorable test results nor potential resistance by property owners to testing procedures is a concern cognizable under any provision of the Freedom of Information Act.

14. Although not specifically alleged, the Commission also finds that the records in question are not preliminary drafts or notes within the meaning of §1-19(b)(1), G.S.


15. The respondent failed to prove that the records requested or the information contained therein are exempted from disclosure by any other state statute or federal law.

16. It is concluded that the respondent violated §1-15 and 1-19(a), G.S. when it denied the complainant access to the records of water testing data requested on January 3, 1985.

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

1. The respondent shall forthwith provide the complainant with copies of test results and names of homeowners as described at paragraph 3 of the findings, above.

Approved by order of the Freedom of Information Commission at its regular meeting of July 24, 1985.



Mary Jo Jolicoeur
Clerk of the Commission