

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Kenneth J. Foody

FINAL DECISION

Complainant

Docket #FIC 85-106

against

State of Connecticut
Department of Income Maintenance

September 11, 1985

Respondent

The above captioned matter was heard as a contested case on July 9, 1985 at which time the complainant 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. By letter filed with the Commission on April 23, 1985, the complainant alleged that the respondent failed to reply to a request for records.

3. It is found that by letter dated March 26, 1985, the complainant, the conservator of the estate of the late Sandra Foody, requested that the respondent provide a statement of assistance rendered to Sandra Foody.

4. It is found that due to a large volume of requests processed by the respondent, the respondent retrieved the computer printout of the requested record approximately two weeks after receiving the complainant's request.

5. The respondent made no reply to the complainant's request but forwarded the statement of assistance rendered to the Department of Administrative Services, Bureau of Collection Services so that agency could determine if the state had claims against the estate of Sandra Foody.

6. By letter dated April 30, 1985, the Bureau of Collection Services sent the complainant the statement of assistance rendered with a statement of the state's claims against the estate.

7. At the hearing, the complainant sought additional documentation regarding the statement of assistance and the respondent stated that any records the agency had could be furnished to the complainant within two weeks.

8. It is found that there was no administrative necessity for the statement of assistance to be sent to the Bureau of Collection Services before it was sent to the complainant.

9. §§1-15 and 1-19(a), G.S., provide that every person shall have the right to receive copies of public records promptly upon request. §1-21i(a), G.S., provides that failure to comply with a request for records within four business days shall be deemed to be a denial of such request.

10. The Commission has advised that the word "promptly" in §1-19(a), G.S., means "quickly and without undue delay, taking into account all of the factors presented by a particular request . . . [including] the volume of records requested; the amount of personnel time necessary to comply with the request; the time by which the requestor needs the information contained in the records; the time constraints under which the agency must complete its other work; the importance of the records to the requestor, if ascertainable; and the importance to the public of completing the other agency business without the loss of the personnel time involved in complying with the request." Advisory Opinion #51, 1/11/82. The Commission recommended that if immediate compliance is not possible, the agency explain the circumstances to the requestor.

11. It is concluded that the respondent violated §§1-15 and 1-19(a), G.S., by failing to provide the complainant with a copy of the requested records before forwarding the statement to the Bureau of Collection Services.

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 comply strictly with the provisions of §§1-15 and 1-19(a), G.S.

2. The respondent shall inform all employees who respond to requests for records of the requirements of the F.O.I. Act regarding prompt access to public records. The respondent shall either distribute copies of this decision or an appropriate memorandum.

3. The Commission recommends that when records cannot be promptly provided, the respondent inform the requestor of the reasons for the delay and the estimated time in which the request will be fulfilled.

Approved by order of the Freedom of Information Commission at its regular meeting of September 11, 1985



Mary Jo Jolicoeur
Clerk of the Commission