

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Randall Reeves,

FINAL DECISION

Complainant

Docket #FIC85-115

against

October 9, 1985

Office of the Corporation
Counsel of the City and Town
of New Haven; City and Town
of New Haven,

Respondents

The above captioned matter was heard as a contested case on July 25, 1985 at which time the complainant and the respondent office of corporation counsel appeared and presented testimony, exhibits and argument on the complaint.

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

1. The respondent office of corporation counsel is a public agency within the meaning of §1-18a(a), G.S.

2. On or about July 4, 1984 the City of New Haven instituted a lawsuit against Zimpro, Inc. "for damages resulting from acts or omissions of [Zimpro] under a contract awarded to [it] for the design, construction and installation of sludge conditioning and incineration systems at the East Shore Wastewater Treatment Plant in New Haven."

3. By letter dated April 17, 1985 the complainant made a request of the public information/public advocacy office of the City of New Haven for copies of invoices for services rendered by the law firm of Beveridge and Diamond and by any other law firm or attorney retained for the purpose of litigating claims pertaining to the East Shore Wastewater Treatment Plant.

4. By letter dated May 1, 1985 the respondent office of corporation counsel denied the complainant's request.

5. By letter of complaint filed with the Commission on May 15, 1985 the complainant appealed the denial of his request.

6. By letter dated May 14, 1985 the complainant limited his April 17, 1985 request by indicating that information other than the name of the attorney or law firm submitting the invoice, the period of time covered by the invoice and the total amount of the invoice could be deleted.

7. By letter of complaint filed with the Commission on June 14, 1985 the complainant appealed the respondent's failure to respond to the May 14, 1985 letter.

8. At hearing the parties agreed that the complainant's request was for disclosure as specified in his May 14, 1985 letter.

9. Also at hearing, the respondent offered the records in question for examination in camera, which offer was declined by the Commission.

10. The respondent claims that disclosure of information other than the names of counsel would provide insight into the City of New Haven's strategies with respect to the pending lawsuit, and that the information is therefore exempted from disclosure by §1-19(b)(4), G.S., citing as support for this claim the fact that the complainant is employed by a law firm which represents Zimpro.

11. It is found that an invoice reflecting nothing more than the identity of counsel, when services were rendered and for how much is not a record pertaining to strategy and negotiations within the meaning of §1-19(b)(4), G.S.

12. The respondent claims that to reveal how much the litigation is costing the City of New Haven when the City has no reciprocal right to disclosure would give an impermissible advantage to Zimpro.

13. It is found that the absence of an obligation to disclose on the part of Zimpro's counsel does not permit the respondent to refuse to disclose otherwise non-exempt records.

14. The respondent also claims that an exemption for an attorney's "work-product" has been read into the federal Freedom of Information Act, 5 USC §552(b)(5), that the requested records are in the nature of an attorney's "work-product," and that a similar exemption should be read into Connecticut's Act.

15. The respondent provided no evidence to support either its claim that limited billing information, without more, is an attorney's work-product within the meaning of 5 USC §552(b)(5) or that such an exemption should be read into Connecticut's Freedom of Information Act.

16. The respondent failed to prove that the requested records are exempted from disclosure by any provision of the Freedom of Information Act, other state statute or federal law.

17. It is concluded that the respondent violated §§1-15 and


1-19(a), G.S., when it denied the complainant's request, as limited in paragraph 6, above, for invoices for legal services pertaining to the East Shore Wastewater Treatment Plant.

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 invoices for services rendered by the law firm of Beveridge and Diamond and by any other law firm or attorney retained for the purpose of litigating claims pertaining to the East Shore Wastewater Treatment Plant.

2. The respondent may, prior to releasing copies to the complainant, delete or mask information other than the name of the attorney or law firm submitting the invoice, the period of time covered by the invoice and the total amount of the invoice.

Approved by order of the Freedom of Information Commission at its regular meeting of October 9, 1985.



Mary Jo Jolicœur
Clerk of the Commission