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FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission · 18-20 Trinity Street, Suite 100 · Hartford, CT 06106
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William Rousseau,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2014-494

Chief, Police Department, Town of Windsor Locks;
Police Department, Town of Windsor Locks; and
Town of Windsor Locks,
Respondent(s)

May 13, 2015

Transmittal of Proposed Final Decision

In accordance with Section 4-179 of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision prepared by the hearing officer in the above-captioned matter.

This will notify you that the Commission will consider this matter for disposition at its meeting which will be held in the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, 1st floor, Hartford, Connecticut, at **2 p.m. on Wednesday, June 10, 2015**. At that time and place you will be allowed to offer oral argument concerning this proposed finding and order. Oral argument shall be limited to ten (10) minutes. For good cause shown, however, the Commission may increase the period of time for argument. A request for additional time must be made in writing and should be filed with the Commission **ON OR BEFORE May 29, 2015**. Such request **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, and (2) include a notation indicating such notice to all parties or their representatives.**

Although a brief or memorandum of law is not required, if you decide to submit such a document, an **original and fourteen (14) copies** must be filed **ON OR BEFORE May 29, 2015**. **PLEASE NOTE: Any correspondence, brief or memorandum directed to the Commissioners by any party or representative of any party MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, (2) include a notation indicating such notice to all parties or their representatives and (3) be limited to argument. NO NEW EVIDENCE MAY BE SUBMITTED.**

If you have already filed a brief or memorandum with the hearing officer and wish to have that document distributed to each member of the Commission, it is requested that **fifteen (15) copies** be filed **ON OR BEFORE May 29, 2015**, and that **notice be given to all parties or if the parties are represented, to their representatives, that such previously filed document is being submitted to the Commissioners for review.**

By Order of the Freedom of
Information Commission

W. Paradis
Acting Clerk of the Commission

Notice to: William Rousseau
Scott A. Storms, Esq.

2015-05-13/FIC# 2014-494/Trans/wrbp/MS/VDH/TAH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

William Rousseau,

Complainant

against

Docket #FIC 2014-494

Chief, Police Department,
Town of Windsor Locks;
Police Department, Town
of Windsor Locks; and
Town of Windsor Locks,

Respondents

April 30, 2015

The above-captioned matter was heard as a contested case on February 18, 2015, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. It is found that, by letter dated July 5, 2014, the Town of Windsor Locks informed the complainant that his temporary pistol permit application had been denied.
3. By email dated July 26, 2014 and filed July 28, 2014, the complainant appealed to this Commission, alleging that the respondents had violated the Freedom of Information (“FOI”) Act because the complainant had not been able to reach the respondent chief of police in order to make a Freedom of Information (“FOI”) request.
4. Section 1-206, G.S., provides in relevant part:

(a) Any denial of the right to inspect or copy records . . . shall be made to the person requesting such right . . . in writing, within four business days of such request. . . . Failure to comply with a request to so inspect or copy such public record within the applicable number of business days shall be deemed to be a denial.

(b)(1) Any person denied the right to inspect or copy records under section 1-210 or wrongfully denied the right to attend any meeting of a public agency or denied any other right conferred by the Freedom of Information Act may appeal therefrom to the Freedom of Information Commission, by filing a notice of appeal with said commission. A notice of appeal shall be filed not later than thirty days after such denial. . . . (Emphasis added).

5. It is found that, in order for this Commission to have jurisdiction over an appeal regarding the right to inspect or copy public records, an appeal to the Commission must be preceded by a request for records, which has been denied either expressly or by operation of statute. In addition, the appeal (or complaint) must be filed with the Commission within thirty days of such denial.

6. For purposes of clarity, it is found that, on August 27, 2014, a month after the appeal was filed in the instant case, the complainant made a written request for the records pertaining to the background investigation conducted relevant to his temporary pistol permit application. It is found that, by email dated August 28, 2014, the respondents informed the complainant that the requested records were ready for him to pick up. It is found that, at the time of the contested case hearing, the complainant had received these records. It is further found that the respondents did not redact or withhold any records responsive to the complainant's August 27, 2014 request. In addition, it is found that, by email dated November 3, 2014, the complainant sent an additional request for records to the respondents and that the respondents have also responded to this request.

7. However, with regard to the instant matter, it is concluded that, because the filing of the appeal preceded an actual request for records, the complainant was not denied the right to inspect or copy records within the meaning of §§1-206(a) and (b)(1), G.S. Accordingly, the Commission lacks subject matter jurisdiction in this case.

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

1. The complaint is dismissed for lack of subject matter jurisdiction.



Commissioner Matthew Streeter
as Hearing Officer