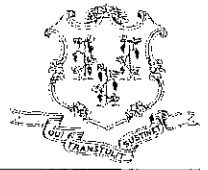


Since 1975



# FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106  
Toll free (CT only): (866) 374-3617 Tel: (860) 566-5682 Fax: (860) 566-6474 • www.ct.gov/foi • email: foi@ct.gov

Arthur Smith

Complainant(s)

against

Town Clerk, Town of Mansfield; and Town  
of Mansfield

Respondent(s)

Notice of Rescheduled  
Commission Meeting

Docket #FIC 2014-895

August 31, 2015

This will notify you that the Freedom of Information Commission has rescheduled the above-captioned matter, which had been noticed to be heard on Wednesday, September 9, 2015 at 2 p.m.

The Commission will consider the case at its meeting to be held at the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, 1st floor, Hartford, Connecticut, at **2:00 p.m. on Thursday, September 24, 2015.**

Any brief, memorandum of law or request for additional time, as referenced in the August 18, 2015 Transmittal of Proposed Final Decision, should be received by the Commission on or before September 11, 2015.

By Order of the Freedom of Information Commission

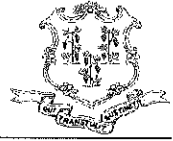
W. Paradis,  
Acting Clerk of the Commission

Notice to:  
Arthur Smith  
James P. Welsh, Esq.

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Arthur Smith,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2014-895

Town Clerk, Town of Mansfield; and  
Town of Mansfield,  
Respondent(s)

August 18, 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, September 9, 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 August 28, 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 August 28, 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 August 28, 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: Arthur Smith  
James P. Welsh, Esq.

2015-08-18/FIC# 2014-895/Trans/wrbp/CAL//TAH

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Arthur Smith,

Complainant

against

Docket #FIC 2014-895

Town Clerk, Town of Mansfield;  
and Town of Mansfield,

Respondents

August 18, 2015

The above-captioned matter was heard as a contested case on July 1 and July 31, 2015, at which times the complainant and the respondents appeared 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 December 9, 2014 to the respondent Town Clerk, the complainant requested copies of “all records in the town’s possession relating to investigations or inquiry by the Federal Attorney’s Office, State Attorney’s office, Troop C or any division there of [sic], the Connecticut Attorney General’s office, and/or the FBI... relat[ing] to... the Town of Mansfield’s financial accounting and financial accounting services processed through the Town’s Chief Financial Officer or her staff...” (the “requested records”).
3. It is found that, by letter dated December 15, 2014, the respondent Town Clerk acknowledged the complainant’s request, stating that the requested records were being compiled for review by the town attorney. The review was expected to be completed by December 31, 2014, but the respondent Town Clerk also indicated she would let the complainant know if the records were available for disclosure earlier.
4. By letter dated and filed with the Commission on December 16, 2014, the complainant appealed to the Commission, stating that he was “writing to request a hearing to determine whether the refusal of the Town of Mansfield to disclose the documents requested in my letter of December 9, 2014, see attached Exhibit A, before December 31, 2014, see Exhibit B, is in compliance with the promptness requirement of CGS Sec. 1-210.”

5. Section 1-200(5), G.S., states:

“Public records or files” means any recorded data or information relating to the conduct of the public's business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

6. Sections 1-210(a) and 1-212(a), G.S., state, respectively, in relevant parts:

Except as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to (1) inspect such records promptly during regular office or business hours, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212. (emphasis added)

...

Any person applying in writing shall receive, promptly upon request, a plain or certified copy of any public record. (emphasis added)

7. It is found that the respondent Town Clerk initiated her search for records by contacting: a) the Town Manager, Matthew Hart, and the Assistant Town Manager, Maria Capriola, on December 10, 2014; b) the Director of Finance, Cherie Trahan, also on or about December 10, 2014; and c) with Maria Capriola acting as intermediary, Jamie Russell in the Information Technology Department.

8. It is found that, by email dated December 19, 2014, the town attorney, Kevin Deneen, forwarded a copy of a search and seizure warrant to the complainant in response to his FOIA request. Attorney Deneen also noted that the warrant maintained by the respondent Town did not include the warrant application or supporting affidavits. Finally, he stated that he would be happy to mail a hard copy if requested. The complainant responded by email, also dated December 19, 2014, that he was unable to open the emails. Attorney Deneen, on the same day, mailed a hard copy of the search and seizure warrant to the complainant.

9. It is further found that the search for electronic records identified a few emails within the scope of the complaint's request, which were available at the respondent Town Clerk's office by December 31, 2014. The complainant took possession of these emails during February 2015.

10. At the hearings, the respondents argued that the complaint was limited to alleging a promptness violation and that testimony concerning whether all requested records were disclosed should not be permitted on the grounds that such testimony would be beyond the scope of the complaint. The hearing officer ruled that, while respondents' argument was certainly colorable, the complaint did reference a refusal to disclose

documents and therefore testimony on this subject would be permitted. The hearing officer also stated at the July 1, 2015 hearing that the respondents would be permitted a continued hearing, if they wished, in order to have the opportunity to prepare fully concerning the disclosure of all requested records.

11. It is found, based on the testimony of the Town Manager, Mr. Matt Hart, that the respondent Town was never provided and has never maintained the warrant application and affidavits that supported the search and seizure warrant. On July 30, 2015, the day prior to the second hearing before the Commission, the complainant was able to get copies of the warrant application and supporting affidavits from the Rockville Superior Court. However, on October 31, 2014, when two detectives from Troop C of the State Police served the warrant on Mr. Hart as a representative of the respondent Town, only the search and seizure warrant was delivered.

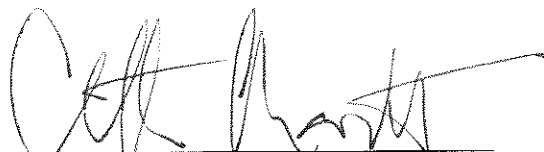
12. It is found that it was highly unusual for a search and seizure warrant to be served on the respondent Town. Indeed, it was the only time such a warrant had been so served during the nine years of Town Manager Hart's employment in the respondent Town. Given that the Town had no experience with maintaining a search and seizure warrant in its records, it was reasonable to seek the opinion of counsel concerning whether such warrant was subject to mandatory disclosure. In light of these factors, the ten day period from the records request (December 9, 2014) to the records disclosure (December 19, 2014) did not violate the promptness requirement.

13. It is concluded that the respondents did provide the complainant with all the requested records that they maintained.

14. It is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., by failing to provide the requested records promptly.

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.



Clifton A. Leonhardt  
as Hearing Officer