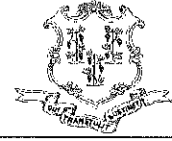


Since 1975



# 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.state.ct.us/foi/ · email: foi@po.state.ct.us

Franklin Farrar, Sr.,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2015-104

Mayor, Town of Stratford; and Town of Stratford,  
Respondent(s)

September 16, 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, October 14, 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 October 2, 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 October 2, 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 October 2, 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: Franklin Farrar, Sr.  
John Florek, Esq.

2015-09-16/FIC# 2015-104/Trans/wrbp/MES/VB/TAH

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Franklin Farrar, Sr.,

Complainant

against

Docket #FIC 2015-104

Mayor, Town of Stratford; and Town of  
Stratford,

Respondents

September 10, 2015

The above-captioned matter was heard as a contested case on August 20, 2015, at which time the complainant and 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, on January 21, 2015, the complainant made a written request to the respondents for certain records related to retired employees of the town of Stratford who had participated in the Federal Comprehensive Employment and Training Act Program ("C.E.T.A.") and/or Federal Emergency Employment Act Program ("E.E.A.") and later became permanent town employees.
3. By letter dated February 4, 2015 and filed on February 9, 2015, the complainant appealed to this Commission, alleging that the respondents failed to provide copies of certain records referenced in paragraph 2, above, in violation of the Freedom of Information Act.
4. Section 1-200(5), G.S., defines "public records or files" as:  
  
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.

5. Section 1-210(a), G.S., provides in relevant part that:

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 . . . (3) receive a copy of such records in accordance with section 1-212.

6. Section 1-212(a), G.S., provides, in relevant part, that “[a]ny person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

7. It is found that, to the extent that the records identified in paragraph 2, above, exist and are maintained by the respondents, such records are public records within the meaning of §§ 1-200(5) and 1-210(a), G.S., and must be disclosed in accordance with §§1-210(a) and 1-212(a), G.S., unless they are exempt from disclosure.

8. It is found that, by letter dated March 20, 2015, the respondents’ counsel acknowledged receipt of the complainant’s request and enclosed a copy of a similar request made by the complainant on November 14, 2013, along with a response from the respondents dated December 5, 2013 and a list of participants in the C.E.T.A. program who later became permanent town employees. In both the December 5, 2013 and March 20, 2015 letters, it is found that the respondents asserted that they were unable to locate any additional records concerning former C.E.T.A. participants or former E.E.A. participants. Despite contradictory testimony from the complainant at various times throughout the hearing regarding receipt of the March 20, 2015 letter, it is found that the letter had the correct address, and the complainant was in possession of the list of former C.E.T.A. participants.

9. The Commission takes administrative notice of the fact that C.E.T.A. and E.E.A. were federally-funded programs developed in the early 1970s to increase employment opportunities by offering job training and experience in public service. C.E.T.A. was replaced by the Job Training Partnership Act in 1982. The E.E.A. program was in existence for several years.

10. At the hearing in this matter, the respondents did not claim any exemption to disclosure. Rather, the respondents’ witness, the director of human resources and intellectual technology, testified at the hearing, that due to the antiquated nature of the requested records, no additional responsive records exist beyond the list of C.E.T.A. participants referenced in paragraph 8, above, that was in the possession of respondents’ counsel.

11. The complainant asserted that the list referenced in paragraph 8, above, is incomplete. In support of that assertion, the complainant testified, and it is found, that certain

C.E.T.A. participants were not included on the list referenced in paragraph 8, above. However, it is further found that the exclusion of certain C.E.T.A. participants from the list alone, does not support the conclusion that additional records exist beyond those provided to the complainant that were in the possession of respondents' counsel, or that the respondents are in possession of any such additional records.

12. In support of respondents' assertion that no additional records exist, the respondent's witness testified, and it is found, that the respondents diligently searched for responsive records and made a good faith determination that there were no such records. It is found that the respondents' search included the witness' personal review of the Mayor's office and the entire human resources department, which included sixteen (16) to eighteen (18) filing cabinets. The witness further testified, and it is found, that the witness and another human resources professional searched through an additional sixteen (16) filing cabinets and approximately thirty (30) filing boxes that were in storage. The witness also testified, and it is found, that the finance department confirmed that no responsive records were in its department.

13. The respondents' witness further testified, and it is found, that the respondents' finance department has a record retention policy, which permits the destruction of certain records after six years with permission from the Office of the Public Records Administrator ("Public Records Administrator"). The witness also testified, and it is found, that on April 27, 2011 and August 13, 2014, the respondents received authorization from the Public Records Administrator to dispose of certain public records, including payroll records and grant fiscal records from the 1970s, 1980s, 1990s and 2000s.

14. Based upon the credible testimony and documentary evidence in this matter, it is found that there are no other responsive records in the possession of the respondents.

15. It is therefore concluded that the respondents did not violate the disclosure provisions of the Freedom of Information Act as alleged by the complainant.

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

1. The complaint is hereby dismissed.

  
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Mary E. Schwind  
as Hearing Officer