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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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Rich Burgess and Connecticut
Carry, Inc.,

Complainant(s)

against

Notice of Meeting

Docket #FIC 2012-118

Chief, Police Department, City of Stamford; and
Police Department, City of Stamford,

Respondent(s)

November 19, 2012

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, December 12, 2012**. 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 November 30, 2012**. 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, the Commission requests that an **original and fourteen (14) copies** be filed **ON OR BEFORE November 30, 2012**. **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 **fourteen (14) copies** be filed **ON OR BEFORE November 30, 2012**, 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: Rich Burgess
Burt Rosenberg, Esq.

11/19/2012/FIC# 2012-118/Trans/wrbp/TCB//CAL

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Rich Burgess and Connecticut Carry, Inc.,

Complainant

against

Docket #FIC 2012-118

Chief, Police Department, City of Stamford;
and Police Department, City of Stamford,

Respondents

November 19, 2012

The above-captioned matter was heard as a contested case on August 8, 2012, at which time the complainants 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. By e-mail dated February 5, 2012, the complainant made the following request to the respondents:

“Please provide prompt access during normal business hours [to] a list of all pistol permit applications currently in [the] possession of the Stamford Police Department that are both complete applications and have not yet been returned as either approved or denied to the applicants (no temporary permit issued). This list should include at a minimum the name of the applicant, the date when the complete application was submitted to the Stamford Police Department (where applicable), the date the application’s fingerprints were sent to the SPBI, and (where applicable) the date the applicant’s FBI report was received back from the SPBI.”

3. It is found that, after further correspondence, the respondents provided the complainant with the most current list of pistol permit applicants on February 22, 2012.

4. By letter dated and received on March 1, 2012, the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide prompt access to the requested record. The complainant requested that the maximum civil penalty be imposed against the respondents.

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

"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. 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, (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.

7. 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."

8. It is found that, to the extent that it exists, the requested record is a public record within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

9. It is found that the respondents maintain a list of pistol permit applicants to which names are added and then removed as the application process for each applicant concludes. It is found that the list is maintained by a Detective Caserta of the respondent police department. It is found that Detective Caserta does not keep older versions of the list but rather works from the same document and makes changes to the list as necessary.

10. It is found that Detective Caserta was given the authorization to disclose the list on February 22, 2012 and that, therefore, the complainant was provided with the list as it existed on that date.

11. At the hearing on this matter, the complainant explained that the intent of his request was to be provided with the list that existed on February 5, 2012 which list included names that did not appear on the February 22, 2012 list. The complainant contended that had the respondents complied promptly with his request, he would have been provided with the list that existed at the time of his request. He also contended that there were no reasonable grounds for the respondents' delay and therefore, the imposition of a civil penalty is warranted.

12. At the hearing on this matter, the respondents argued that the list is exempt from disclosure pursuant to §29-28(d), G.S., and should never have been disclosed. The respondents argued that this Commission has previously concluded that §29-28(d), G.S., exempts the names and addresses of pistol permit applicants from mandatory disclosure. The respondents contended that therefore, the issue of promptness is moot since the respondents should not have disclosed any version of the list.

13. Section 29-28(d), G.S., provides in relevant part that:

(d) Notwithstanding the provisions of sections 1-210 and 1-211, the name and address of a person issued a permit to sell at retail pistols and revolvers pursuant to subsection (a) of this section or a state or a temporary state permit to carry a pistol or revolver pursuant to subsection (b) of this section, or a local permit to carry pistols and revolvers issued by local authorities prior to October 1, 2001, shall be confidential and shall not be disclosed

14. It is concluded that the issue of whether §29-28(d), G.S., exempts from disclosure the names and addresses of applicants for pistol permits is not a question of first impression for this Commission. In Docket #1998-327; Sherman v. Board of Firearms Permit Examiners (Aug. 25, 1999), the Commission concluded that the names and addresses of applicants who appealed the denial of their pistol permit applications and subsequently were granted permits were exempt from disclosure pursuant to §29-28(d), G.S. The Commission also concluded that the names and addresses of applicants who had pending appeals of denials of their pistol permit applications were also exempt from disclosure, because disclosure might reveal the names and addresses of persons who might be successful in their appeals and ultimately might be issued a permit.

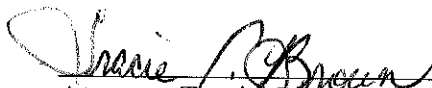
15. Further, this Commission concluded in Docket #2007-268 MariAn Gail Brown and the Connecticut Post v. Chief, Police Department, City of Bridgeport, that §29-28d, G.S., exempts from mandatory disclosure the names and addresses of: persons whose applications are pending; persons whose applications have been approved; persons whose applications were initially denied but later approved on appeal; and persons whose applications were denied but who have pending appeals of such denials.

16. Accordingly, it is concluded that the respondents are precluded from disclosing the list of pending applications requested by the complainant.

17. Therefore, it is concluded that the respondents did not violate the FOI Act as alleged by the complainant and the Commission will not consider his request for a civil penalty.

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.



Attorney Tracie C. Brown
as Hearing Officer