



FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
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Suzanne Carlson and the Journal Inquirer,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2011-542

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

May 1, 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, May 23, 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 May 11, 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 May 11, 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 May 11, 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

[Handwritten signature of W. Paradis]

W. Paradis
Acting Clerk of the Commission

Notice to: Suzanne Carlson
Martin B. Burke, Esq.

5/1/12/FIC# 2011-542/Trans/wrbp/KKR/TAH

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Suzanne Carlson and the  
Journal Inquirer,

Complainants

against

Docket #FIC 2011-542

Mayor, Town of Vernon; and  
Town of Vernon,

Respondents

March 26, 2012

The above-captioned matter was heard as a contested case on February 2, 2012, at which time the complainants and the respondents appeared and presented testimony, exhibits and argument on the complaint. For purposes of hearing, this matter was consolidated with Docket #FIC 2011-503, Suzanne Carlson and the Manchester Journal Inquirer v. Town Administrator, Town of Vernon; and Town of Vernon; and Docket #FIC 2011-535, Suzanne Carlson and the Manchester Journal Inquirer v. Town Administrator, Town of Vernon; and Town of Vernon.

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. It is found that, on September 29, 2011, the complainant called the respondent mayor ("mayor") on his cell phone, and left a voice mail message requesting to inspect a copy of a contract between the town of Vernon and the law firm of Blackwell, Davis & Spadaccini, dated September 4, 2011 ("contract").
3. It is found that the mayor responded, via email, dated September 29, 2011, stating, in relevant part: "Please do not call my cell phone anymore. Please make an appointment with my executive assistant and schedule a time to meet, at which time I will respond to your questions. My executive assistant will schedule an appointment with me, when my schedule permits....I have a couple of openings towards the end of October."
4. It is found that, on September 29, 2011, the complainants called the mayor's office and spoke with the mayor's assistant. It is further found that the complainants again requested to inspect a copy of the contract, and also scheduled a meeting with the mayor for November 7, 2011.
5. By letter of complaint, dated and filed September 30, 2011, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of

Information (FOI) Act by failing to comply with the request described in paragraph 2, above.

6. It is found that, on October 18, 2011, the respondents provided the complainants with a copy of the contract, described in paragraph 2, above.

7. It is found that, on November 7, 2011, the complainants met with the mayor, who, again, provided them with a copy of the contract.

8. It is found that, by letter dated December 22, 2011, counsel for the respondents also provided the complainants with a copy of the contract.

9. 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.

10. 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.

11. 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.”

12. It is found that the record described in paragraph 2, above, is a public record within the meaning of §§1-200(5), 1-210(a) and 1-212(a), G.S.

13. At the hearing in this matter, the complainants argued that the respondents violated the FOI Act because they did not permit them to inspect the record immediately,

upon demand, but rather, required them to make an appointment to inspect the requested record.

14. It is found that nothing in the FOI Act requires the employees of a public agency, or public officials, necessarily, to interrupt their work in order to immediately fulfill a request to inspect or copy records. Rather, the public agency is required to respond to such requests promptly. The meaning of the word "promptly" is a particularly fact-based question that has been previously addressed by the FOI Commission. In Advisory Opinion #51, In the Matter of a Request for Declaratory Ruling, Third Taxing District of the City of Norwalk, Applicant (Notice of Final Decision dated January 11, 1982) the Commission advised that the word "promptly" as used in §1-210(a), G.S., means quickly and without undue delay, taking into consideration all of the factors presented by a particular request. The Commission also gave the following guidance:

The Commission believes that timely access to public records by persons seeking them is a fundamental right conferred by the Freedom of Information Act. Providing such access is therefore as much a part of their mission as their other major functions. Although each agency must determine its own set of priorities in dealing with its responsibilities within its limited resources, providing access to public records should be considered as one such priority. Thus, it should take precedence over routine work that has no immediate or pressing deadline.

15. It is found that the respondents failed to respond to the request, described in paragraph 2, above, promptly. At the hearing in the matter, the respondents failed to offer evidence as to why it took to mayor more than one month to comply with such request.

16. It is therefore concluded that the respondents violated the promptness provisions of §§1-210(a) or 1-212(a), G.S.

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

1. Henceforth, the respondents shall strictly comply with the provisions of §§1-210(a) or 1-212(a), G.S.



Kathleen K. Ross  
as Hearing Officer