

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Nancy Rossi,

Complainant

against

Docket #FIC 2016-0389

Manager, Community Development
Administration, City of West Haven;
Community Development Administration,
City of West Haven; and City of West
Haven,

Respondents

April 12, 2017

The above-captioned matter was heard as a contested case on August 15, 2016, 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. By letter dated May 3, 2016, the complainant made a request to the respondents for the following records:
 - a. all bids for all job/work orders from January 1, 2014 until present;
 - b. complete bidding information sent to vendors and public notice for all bids from January 1, 2014 until present;
 - c. final bids awards for all jobs/work orders from January 1, 2014 until present;
 - d. Community Development Block Grant Budget for Program Year 42, please include complete information that includes all applicants, disposition of the applicants (even if no amount was awarded), amount awarded and uses for funding;

- e. all emails for staff member, John Bernardo from January 1, 2014 until present.

3. By letter dated May 3, 2016 and filed on May 23, 2016 the complainant appealed to this Commission alleging the respondents violated the Freedom of Information (“FOI”) Act by failing to comply with her records request.

4. 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.

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, (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.

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 concluded that, to the extent the requested records exist, such records are public records within the meaning of §1-200(5), 1-210(a), and 1-212(a), G.S.

8. It is found that the complainant had made a previous request for the records described in paragraphs 2a through 2d, above, earlier in 2015. In response to that request, she was provided with responsive records, but she believed that she had not been provided with all of the records that were responsive to her request. In response to the complainant’s claim that some responsive records were missing, the respondents conducted another search and compiled additional records. It is found that, by email dated December 2, 2015, the respondents informed the complainant that the additional records were available for her inspection. It is found that the complainant was aware that the records described in paragraphs 2a through 2d, above, were available for her

inspection at the time she made her May 3, 2016 request. It is found, however, that as of the date of the hearing in this matter, the complainant had not appeared at the respondents' offices to inspect the additional records.

9. It is concluded that the respondents did not violate the disclosure provisions of the FOI Act with respect to the records described in paragraphs 2a through 2d, above.

10. With respect to the complainant's request described in paragraph 2e, above, it is found that the staff member, John Bernardo, was not hired until April of 2015. It is found that the respondents do not maintain any emails of John Bernardo between the dates of January 2014 through March 31, 2015 because no such emails exist.

11. With respect to the emails of John Bernardo between the dates of April 2015 and May 3, 2016, the respondents contended that compliance with that portion of the complainant's request would be very time consuming and that she would have to prepay for the records before they could begin the search because they would have to make additional copies for her inspection once appropriate redactions were made. In addition, the respondents offered to provide the complainant with just the respondent Community Development Administration emails, provided she was willing to limit her request.

12. 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 ... inspect such records promptly during regular office or business hours....

13. It is concluded that §1-210(a), G.S., requires that the respondents permit the complainant to review the records without any charge, provided she does not take possession of the copies.

14. It is concluded that the respondents violated §1-210(a), G.S., by requiring prepayment of the cost of copies associated with their redaction of permissibly exempt information from the responsive records. See Docket FIC 2007-228, Wanda Smith and Nelson Leon v. Director of Human Resources, State of Connecticut, Connecticut Lottery Corporation, (November 17, 2010) (The FOI Commission concluded that the respondent violated §1-210(a), G.S., by conditioning the complainant's right to promptly inspect the requested records upon prepayment of any fee.)

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

1. The respondents shall forthwith conduct a diligent search for the emails of John Bernardo between the dates of April 2015 and May 3, 2016, and provide the complainant with access to inspect those records.

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

Approved by Order of the Freedom of Information Commission at its regular meeting of April 12, 2017.



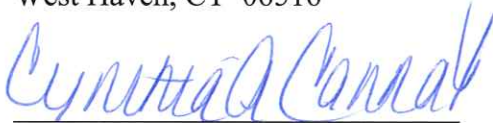
Cynthia A. Cannata
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

Nancy Rossi
12 Robin Road
West Haven, CT 06516

Manager, Community Development Administration, City
of West Haven; Community Development Administration,
City of West Haven; and City of West Haven
c/o Henry C. Szadkowski, Esq.
355 Main Street
West Haven, CT 06516



Cynthia A. Cannata
Acting Clerk of the Commission