

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Carolyn Sires,

Complainant

against

Docket #FIC 2017-0479

Executive Director, Housing Authority,
Town of Branford; and Housing Authority,
Town of Branford,

Respondents

July 25, 2018

The above-captioned matter was heard as a contested case on December 14, 2017, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. On May 3, 2018, a Report of Hearing Officer was issued, which was scheduled to be heard at the Freedom of Information (“FOI”) Commission meeting of June 13, 2018. On June 12, 2018, the Hearing Officer sua sponte withdrew such report prior to the Commission’s consideration.

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 July 31, 2017, the complainant requested copies of emails of Joseph Chadwick, who was a member of the respondent Housing Authority, as well as a member of the Planning and Zoning Commission of the Town of Branford.
3. It is found that the complainant requested copies of Chadwick’s email correspondence with “Beacon[,] Branford Housing Authority, and Branford Affordable Housing[.]”
4. It is found that the complainant sent her request to the First Selectman of the Town of Branford and the Corporation Counsel for the Town of Branford.
5. By letter filed August 16, 2017, the complainant appealed to this Commission, alleging that the Branford Housing Authority violated the FOI Act by failing to provide her with copies of the records she requested.
6. 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, ...whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

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

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

8. Section 1-212(a), G.S., provides in relevant part: "Any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.

9. It is found that all the records requested by the complainants are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

10. On September 22, 2017, the respondents filed a motion to dismiss, claiming that the complainant's request was directed to the First Selectman of the Town of Branford and the Corporation Counsel for the town of Branford, not the respondents. The respondents claimed that the housing authority and its executive director had no duty to comply with a request not directed toward them and they are not the proper parties to this appeal.

11. Section 8-40, G.S., provides, "In each municipality of the state there is created a public body corporate and politic to be known as the housing authority of the municipality."

12. It is concluded that §8-40, G.S., permits the creation of a housing authority as "a distinct corporate entity ... it is not an agency of the [municipality.]" Austin v. Housing Authority of the City of Hartford, 143 Conn. 338, 349 (1956).

13. It is found that the respondents are a distinct corporate entity from the Town of Branford. It is found, as indicated in paragraph 4, above, that the complainant sent her request to public officials of the Town of Branford.

14. Accordingly, the respondents' September 22, 2017 motion to dismiss is granted, and it is concluded that the respondents did not violate the FOI Act.

15. The Commission observes that by the time of the December 14, 2017 hearing in this matter, the respondents had provided the complainant with two CDs containing all the responsive emails. The respondents also provided a third CD containing the attachments to the emails.

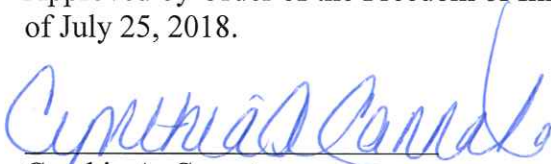
16. The complainant testified that she was unable to access the contents of the attachments on the third CD and that various tech specialists whom she consulted were also unable to do so.

17. On May 25, 2018, the respondents provided 509 additional pages of records in compliance with the request.

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.

Approved by Order of the Freedom of Information Commission at its regular meeting of July 25, 2018.



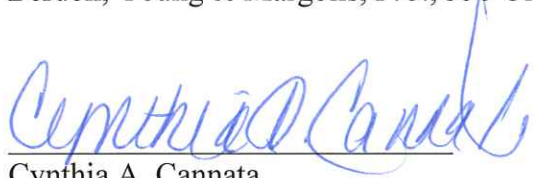
Cynthia A. Cannata
Acting Clerk of the Commission

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:

CAROLYN SIRES, 20 Linden Shores, Branford, CT 06405

EXECUTIVE DIRECTOR, HOUSING AUTHORITY, TOWN OF BRANFORD; AND HOUSING AUTHORITY, TOWN OF BRANFORD c/o Attorney Peter A. Berdon, Berdon, Young & Margolis, P.C., 350 Orange Street, 2nd Floor, New Haven, CT 06511



Cynthia A. Cannata
Acting Clerk of the Commission