

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION  
After Remand

Maura Mastrony and  
Clendenen & Shea, LLC,

Complainants

Docket # FIC 2015-130

against

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

Respondents

October 24, 2018

The above-captioned matter was heard as a contested case on July 2, 2015, at which time the complainants and respondents appeared and presented exhibits and argument on the complaint. The complainants also presented testimony. No witness appeared at the hearing on behalf of the respondents to offer testimony.

On October 1, 2015, the hearing officer issued a Hearing Officer's Report which was adopted as a Final Decision at the Commission's regular meeting of October 28, 2015.

The respondents appealed the Commission's Final Decision. See, Joseph Gaudett, Chief, Bridgeport Police Department, et.al. v. Freedom of Information Commission (HHB-CV-16-6031985-S). By order dated May 5, 2017, the Superior Court remanded the case to the Commission to clarify whether or not the Commission concluded that the respondents violated §1-225, G.S., by holding an executive session for a purpose not permitted by §1-200(6), G.S., and/or in a manner not permitted by §1-231, G.S. The Court retained jurisdiction over the matter.

On December 1, 2017, the Commission notified the parties that, pursuant to the Court's May 5<sup>th</sup> order, the Commission intended to issue a final decision on remand in this matter. The Commission informed the parties that it did not anticipate conducting a proceeding prior to issuing the final decision on remand. However, if the parties, nevertheless, wished to be heard at any such proceeding, the Commission requested that they notify the Commission, in writing, by December 15, 2017. As of March 22, 2018, the parties had not responded to the Commission's December 1<sup>st</sup> notice.

On March 23, 2018, the hearing officer issued a Report of Hearing Officer After Remand. The matter was scheduled for consideration by the Commission at its regular meeting of April 11, 2018, but was withdrawn from the meeting agenda at the request of the undersigned hearing officer.

Subsequently, by letter dated May 2, 2018, the complainants informed the Commission that they were not pursuing this matter any further and wished to withdraw their complaint. On May 8, 2018, the Commission filed a request to expand the administrative record with the Court, seeking to include the complainants' May 2<sup>nd</sup> letter as a new exhibit. On May 16, 2018, the Court granted, without objection, the Commission's request to expand the administrative record. The May 2<sup>nd</sup> letter has been marked as Complainants' Exhibit C (after-filed).

On May 16, 2018, the Court also issued the following order: "In light of the withdrawal of the underlying request for the documents, the scope of the remand previously ordered is amended as follows: In addition to addressing the issues identified in the order of 5/5/17, the Commission shall consider whether the issues presented are now moot. The Commission shall afford the plaintiffs an opportunity to submit a brief regarding the issue of mootness."

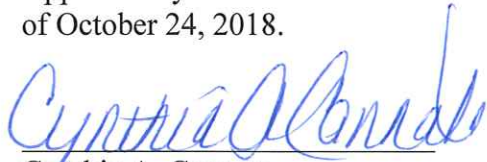
On July 6, 2018, the Commission advised the parties that, pursuant to the Court's May 16<sup>th</sup> order, it was affording them an opportunity to submit briefs regarding the issue of mootness on or before July 27, 2018. Subsequently, the respondents requested an extension of time to file a brief, which request was granted. On September 6, 2018, the respondents filed a brief with the Commission. The respondents argue that this matter is not moot because the Commission's Final Decision contains an order that is prospective in nature; the Final Decision contains a determination that the City violated the FOI Act, and therefore, an actual controversy still exists; and, as a matter of public policy, the Commission should not be able to benefit from its inaction with respect to the Court's May 5, 2017 order. Only two of the respondents' arguments relate to the issue of mootness.

However, in light of the complainants' May 2<sup>nd</sup> letter of withdrawal, the Commission finds that there is no longer a contested case, and the matter is now moot. See Department of Public Safety v. Freedom of Information Commission, et. al., 103 Conn. App. 571 (2007) (where the complainant notified the Commission that the requested records had been disclosed and requested that it take no further action on her complaint, the Court concluded that the matter became moot, as a controversy no longer existed). In the absence of a contested case, the Commission lacks subject matter jurisdiction in this matter. Moreover, the Commission notes, based upon the order below, that the respondents' concerns, as raised in their September 6<sup>th</sup> brief, have been obviated.

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

1. Based on the complainants' May 2, 2018 letter of withdrawal, the Commission's October 28, 2015 Final Decision is rescinded, and the complaint is hereby dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting  
of October 24, 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:

**MAURA MASTRONY AND CLENDENEN & SHEA, LLC**, 400 Orange Street, New Haven, CT 06511

**CHIEF, POLICE DEPARTMENT, CITY OF BRIDGEPORT; POLICE DEPARTMENT, CITY OF BRIDGEPORT; AND CITY OF BRIDGEPORT**, c/o Attorney Tamara Titre, and Attorney Tyisha S. Toms, City of Bridgeport, Office of the City Attorney, 999 Broad Street, Bridgeport, CT 06604



Cynthia A. Cannata  
Acting Clerk of the Commission