FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by FINAL DECISION

Donna Smirniotopoulos,

Complainant

against Docket #FIC 2018-0169

Mayor, City of Norwalk; and
City of Norwalk,

Respondents March 13, 2019

The above-captioned matter was heard as a contested case on June 4, 2018, at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint. This case was consolidated for hearing with Docket #FIC2018-0185, *Donna Smirniotopoulos v. Chairman, Common Council, City of Norwalk et al.*, and Docket #FIC2018-0212, *Donna Smirniotopoulos v. John Kydes et al.*

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 of complaint filed April 10, 2018, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by denying her April 2, 2018 request for certain public records. The crux of the complaint was that the respondents declined to disclose the identity of a candidate to fill a vacancy on the Norwalk Zoning Commission until the name was submitted into nomination to the Norwalk Common Council. (The complainant had also expressed an interest in the Zoning Commission position.)

3. It is found that the complainant made the following April 2, 2018 request to the respondent Mayor:

> Mayor Rilling,
>
> When I indicated my interest in the open Zoning Commission seat, you asked that I submit my resume and cover letter to Donna King. One may then infer that this is the protocol established by the mayor's office and that the

> other two individuals have also submitted their cover letters and resumes. Under FOI, I am requesting to see these items.
>
> Also under the city Charter and the City code, this vacancy should have been filled more than two months ago. I submitted my resume and cover letter on March 15. When did you receive the other resumes and cover letters?

4. It is found that the Mayor responded the same day: "I reached out to them and if they express an interest, they will submit their information to me so I can forward it to the Council."

5. It is found that the complainant then replied that day to the Mayor's explanation by expanding her request to include "all communications related to these individuals, including telephonic records, emails, forwarded emails, and any relevant appointments from your calendar."

6. It is found that the respondents searched for responsive records, including searching emails and calendar appointments, and found none.

7. Section 1-200(5), G.S., defines "public records or files" as:

> 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.

8. 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.

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

10. It is concluded that, there being no records responsive to the complainant's request, the respondents did not violate the FOI Act as alleged.

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 March 13, 2019.

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:

**DONNA SMIRNIOTOPOULOS**, 18 Shorefront Park, Norwalk, CT 06854

**MAYOR, CITY OF NORWALK; AND CITY OF NORWALK**, c/o Attorney M. Jeffry Spahr, City of Norwalk, Office of Corporation Counsel, 125 East Avenue, PO Box 5125, Norwalk, CT 06856-5125

Cynthia A. Cannata
Acting Clerk of the Commission

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