

Freedom of Information Commission  
of the State of Connecticut

In the Matter of a Complaint by            )  
  
Clifford M. Templeton and John  
Dowd,                           Complainants            )    Report of Hearing Officer  
  
  Against                            )    Docket #FIC 76-106  
  
City of West Haven and City Engineer )    July 28, 1976  
of the City of West Haven,  
  Respondents            )

The above captioned matter was heard as a contested case on July 19, 1976, at which time the complainants and the respondents appeared and presented testimony, exhibits and argument on the complaint. The engineering consulting firm of Bowe, Walsh & Associates of Huntington Station, New York, preparers of the documents requested herein, moved for leave to intervene pursuant to §28 of the Rules of Practice of this Commission. Such motion was granted to the extent that the intervenor could participate in oral argument and file written briefs or memoranda.

After consideration of the entire record, the following facts are found:

1. The respondents are public agencies.
2. By letter dated May 10, 1976, the complainant Dowd requested access to inspect certain hydrologic data developed and compiled by the intervenor pursuant to a contract with the respondent city concerning the "Greta Street project."
3. Complainant Dowd renewed this request orally on several occasions up to and including June 2, 1976.
4. Having failed to receive what they considered adequate compliance with the aforesaid requests, the complainants brought the present complaint by letter dated June 9, 1976 and filed with this Commission on June 15, 1976.
5. The respondents represent that they stand ready to provide the complainants with access to any documents prepared, owned, used, received or retained by them, not otherwise exempt from disclosure under P.A. 75-342. They further contend, however, that those requested documents which, under the terms of the contract with the intervenor, are not prepared, owned, used, received or retained by the respondents are not public records within the meaning of §1(d) of P.A. 75-342.

6. It is found that those requested documents not prepared, owned, used, received or retained by the respondents are not public records within the meaning of §1(d) of P.A. 75-342 and therefore this Commission lacks jurisdiction to order their disclosure to the complainants.

7. It is also found that the complainants are now permitted access to all documents, not specifically exempted from disclosure by P.A. 75-342, prepared, owned, used, received or retained by the respondents.

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

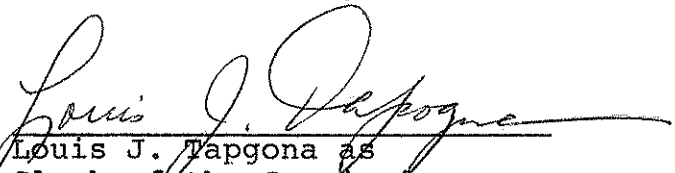
1. The complaint is hereby dismissed.

  
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Commissioner Judith A. Lahey

as Hearing Officer

2. Nothing in this decision shall be construed as constituting approval by the Commission of the use of private institutions by a public agency for the purpose of circumventing the Freedom of Information Act.

Approved by order of the Freedom of Information Act on August 25, 1976.

  
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Louis J. Tapogna as  
Clerk of the Commission