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FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
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John Rutka,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2015-466

Mayor, City of Meriden; City Manager, City of Meriden;
City Council, City of Meriden; and City of Meriden,
Respondent(s)

January 11, 2016

Transmittal of Proposed Final Decision

In accordance with Section 4-179 of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision prepared by the hearing officer in the above-captioned matter.

This will notify you that the Commission will consider this matter for disposition at its meeting which will be held in the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, 1st floor, Hartford, Connecticut, at **2 p.m. on Wednesday, February 10, 2016**. At that time and place you will be allowed to offer oral argument concerning this proposed finding and order. Oral argument shall be limited to ten (10) minutes. For good cause shown, however, the Commission may increase the period of time for argument. A request for additional time must be made in writing and should be filed with the Commission **ON OR BEFORE January 29, 2016**. Such request **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, and (2) include a notation indicating such notice to all parties or their representatives.**

Although a brief or memorandum of law is not required, if you decide to submit such a document, an **original and fourteen (14) copies** must be filed **ON OR BEFORE January 29, 2016**. **PLEASE NOTE: Any correspondence, brief or memorandum directed to the Commissioners by any party or representative of any party MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, (2) include a notation indicating such notice to all parties or their representatives and (3) be limited to argument. NO NEW EVIDENCE MAY BE SUBMITTED.**

If you have already filed a brief or memorandum with the hearing officer and wish to have that document distributed to each member of the Commission, it is requested that **fifteen (15) copies** be filed **ON OR BEFORE January 29, 2016**, and that **notice be given to all parties or if the parties are represented, to their representatives, that such previously filed document is being submitted to the Commissioners for review.**

By Order of the Freedom of Information Commission

W. Paradis
Acting Clerk of the Commission

Notice to: John Rutka
Deborah L. Moore, Esq.

2016-1-11/FIC# 2015-466/Trans/wrbp/CAL/TAH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

John Rutka,

Complainant

against

Docket #FIC 2015-466

Mayor, City of Meriden; City Manager,
City of Meriden; City Council,
City of Meriden; and City of Meriden

Respondents

November 12, 2015

The above-captioned matter was heard as contested case on November 10, 2015, at which time the complainant and the respondents appeared 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)(A), G.S.
2. It is found that, by letter dated July 20, 2015, the complainant made a request to the respondents for access to all records in four categories: a) records documenting each step of the foreclosure proceedings used to attain title of 22 South Third Street; b) records documenting the method of advertising the sale of 22 South Third Street, including the dates and the names of the newspapers used; c) records given to Council members by respondent City Manager L. Kensior concerning his statement at the July 6, 2015 meeting of the respondent City Council concerning the complainant's code violations on his property; and d) the court and date when the complainant was found guilty of code violations (altogether the "requested records").
3. It is found that, by letter dated July 21, 2015, the respondents acknowledged the complainant's request. By further letter dated July 30, 2015, the respondents stated that they had identified sixty-nine pages that were responsive to the complainant's request. The July 30, 2015 letter also enclosed copies of two newspaper articles from 1998 that concerned the sale of the property at issue. This July 30, 2015 letter was resent to the complainant on August 17, 2015, following his claim the previous day that he had not received the originally posted copy.
4. It is found that, by letter dated August 4, 2015 and filed with the Commission on August 6, 2015, the complainant appealed to the Commission, alleging that the failure

of the respondents to provide access to requested records violated the Freedom of Information Act (“FOIA”).

5. 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. (emphasis added)

6. Sections 1-210(a) and 1-212(a), G.S., state, respectively, in relevant parts:

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.

...

Any 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 the requested records are “public records” within the meaning of §§1-200(5), 1-210(a) and 1-212(a), G.S.

8. Based on a review of the four categories of requested records at the November 10, 2015 hearing, it is found that the respondents do not maintain any records documenting the method of advertising the sale of 22 South Third Street (see request at paragraph 2.b), which took place in 1998, because the sale was conducted by Colony Real Estate and not by the respondent City.

9. Based on the review at the hearing, it is further found that no records were given to Council members by City Manager L. Kensior concerning his statement at the July 6, 2015 Council meeting concerning the complainant’s code violations on his property (see request at paragraph 2.c).

10. It is also found that on August 27, 2015 the complainant reviewed the sixty-nine pages that were made available for inspection and that he received the copies he

requested of two pages. Subsequently, he requested and received copies of seven more pages.

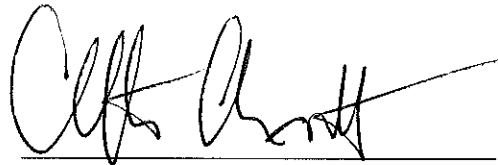
11. Finally, it is found that the respondents were, in general, highly responsive to the complainant's request for records, attempting in good faith to satisfy FOIA requirements, despite a long term, difficult underlying dispute.

12. It is concluded that the respondents provided the complainant with prompt access to all of the requested records that they maintained.

13. It is also concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S.

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.



Clifton A. Leonhardt
as Hearing Officer