

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Martin Edgar,

Complainant

against

Docket #FIC 2016-0624

Adam Cloud, Treasurer, City of  
Hartford; and City of Hartford,

Respondents

January 25, 2017

The above-captioned matter was heard as a contested case on October 31, 2016, at which time the complainant and the respondents appeared, stipulated to certain facts 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), G.S.
2. It is found that, by email dated March 21, 2016, the complainant requested “copies of pension documents that show if Mr. Kimo Kendrick and Ms. Jill Cutler Hodgman are receiving pensions from the City of Hartford.”
3. It is found that, on the same day, the respondents’ Pension Plan Administrator replied by email to the complainant, stating that “both individuals are still actively employed by the City of Hartford and are not receiving pensions.”
4. It is found that, by email dated March 28, 2016, the respondents’ Assistant Corporation Counsel explained to the complainant that “Ms. Hodgman is a member of a retirement plan sponsored by the State of Connecticut, and is not part of the City plan... We do not have any such requested information about her. Mr. Kendrick’s pension contribution is financial and personnel information and is exempt from FOI disclosure.”
5. By email filed March 29, 2016, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide the records he requested. The complainant requested the imposition of civil penalties.
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 the records requested by the complainant are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

10. With respect to the pension records concerning Mr. Kendrick, it is found that by the time of the hearing in this matter, the respondents no longer claimed that such records were exempt from disclosure. The respondents agreed to provide such records to the complainant.

11. It is found that the respondents failed to provide such records in a prompt manner to the complainant. It is concluded that such lack of promptness violated §§1-210(a) and 1-212(a), G.S.

12. With respect to the pension records concerning Ms. Hodgman, it is found that based on the respondents' assertion that Ms. Hodgman was a member of a State of Connecticut retirement plan, the complainant sought records from the appropriate state office concerning Ms. Hodgman's pension. It is found that the Office of the State Comptroller informed the complainant that they do not have any records pertaining to Ms. Hodgman in a State of Connecticut retirement plan for municipal employees.

13. It is found that the complainant is in possession of records that appear to indicate that at the time of her hiring, and as of 2011, Ms. Hodgman was enrolled in the City of Hartford Municipal Employees' Retirement Fund. It is found, however, that it appears that at the time of the complainant's request, Ms. Hodgman was no longer enrolled in such fund, and instead, pursuant to her contract with the City of Hartford, receives a lump sum toward her retirement.

14. At the hearing in this matter, the respondents agreed to search for and provide any records that they maintain that pertain to Ms. Hodgman's enrollment in the City's retirement fund, even if she is no longer so enrolled.

15. After consideration of the entire record in this case, the Commission declines to consider the imposition of civil penalties against the respondents.

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

1. If they have not done so already, the respondents shall forthwith provide to the complainant a copy of the records relating to Mr. Kendrick's pension.

2. The respondents shall also forthwith search for and provide any records that they maintain that pertain to Ms. Hodgman's enrollment in the City's retirement fund, even if she is no longer so enrolled.

3. Henceforth, the respondents shall strictly comply with the promptness requirements of §§1-210(a) and 1-212(a), G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of January 25, 2017.



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:

Martin Edgar  
6 Berkshire Road  
Rocky Hill, CT 06067

Adam Cloud, Treasurer, City of Hartford; and City of Hartford  
c/o Cynthia Lauture, Esq.  
Office of Corporation Counsel  
550 Main Street, Suite 210  
Hartford, CT 06103



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