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Lamberto Lucarelli,
Complainant(s)
against

Chief, Police Department, Town of Old Saybrook; and Police Department, Town of Old Saybrook,
Respondent(s)

Notice of Meeting

Docket #FIC 2011-653

July 5, 2012

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, lst floor, Hartford, Connecticut, at **2 p.m. on Wednesday, July 25, 2012.** 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 July 13, 2012***. 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, the Commission requests that an **original and fourteen (14) copies** be filed ***ON OR BEFORE July 13, 2012***. **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 **fourteen (14) copies** be filed ***ON OR BEFORE July 13, 2012***, 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

W. Paradis
Acting Clerk of the Commission

Notice to: Lamberto Lucarelli
Michael E. Cronin, Jr., Esq.

7/5/12/FIC# 2011-653/Trans/wrbp/LFS//TAH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Lamberto Lucarelli,

Complainant

against

Chief, Police Department, Town of Old Saybrook; and Police Department, Town of Old Saybrook,

Respondents

Report of Hearing Officer

Docket #FIC 2011-653

May 29, 2012

The above-captioned matter was heard as a contested case on March 13, 2012, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. For purposes of hearing, this matter was consolidated with Docket #FIC 2011-592; Lamberto Lucarelli v. Chief, Police Department, Town of Old Saybrook; and Police Department, Town of Old Saybrook.

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 on November 15, 2011, the complainant made a written request for a copy of several incident reports and asked for a waiver of all copying fees because he is indigent.

3. By letter filed December 2, 2011, 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, described in paragraph 2, above.

4. Section 1-200(5), G.S., defines "public records" as follows:

> 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.

5. 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 inspect such records promptly during regular office or business hours or to receive a copy of such records in accordance with the provisions of section 1-212.

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

7. It is concluded 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.

8. It is found that on March 8, 2012, the respondents provided the incident reports to the complainant that he requested on November 15, 2011. It is found that the respondents provided the records to the complainant free of charge.

9. The complainant alleges that the respondents failed to provide the records promptly and that they did not provide all of the records that they maintain.

10. It is found that the records requested by the complainant were the subject of several previous appeals to the FOI Commission. It is found that in none of those cases did the Commission find that the respondents failed to provide all of the records that they maintain. See, Docket #FIC 2008-275, Lamberto Lucarelli v. Chief, Police Department, Town of Old Saybrook; and Police Department, Town of Old Saybrook; Docket #FIC 2008-400, Lamberto Lucarelli v. Public Works Department, Town of Old Saybrook; Docket #FIC 2008-631; Lamberto Lucarelli v. Chief, Police Department, Town of Old Saybrook; and Police Department, Town of Old Saybrook; and Docket #FIC 2008-701; Lamberto Lucarelli v. Chief, Police Department, Town of Old Saybrook; Police Department, Town of Old Saybrook; and Town Counsel, Town of Old Saybrook.

11. It is found that the respondents inadvertently failed to comply with the complainant's request. It is found that, although the respondents had already provided the records to the complainant on previous occasions, their compliance in response to this particular request was not prompt.

12. It is concluded, therefore, that the respondents violated the promptness requirements of the FOI Act.

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

1. Based on the facts and circumstances of this matter, the Commission declines to make an order.

Lisa Fein Siegel
as Hearing Officer

FIC2011-653/HOR/LFS/051012