



# FREEDOM OF INFORMATION

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

First Selectman, Town of Clinton;  
and Town of Clinton,  
Respondent(s)

Notice of Meeting

Docket #FIC 2014-256

December 15, 2014

### 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, January 14, 2015**. 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 2, 2015**. 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 2, 2015**. **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 January 2, 2015**, 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: Seth Wolfe  
John S. Bennet, Esq.

2014-12-15/FIC# 2014-256/Trans/wrbp/TCB//GFD

REEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Seth Wolfe,

Complainant

against

Docket #FIC 2014-256

First Selectman, Town of Clinton;  
and Town of Clinton,

Respondents

December 8, 2014

The above-captioned matter was heard as a contested case on October 23, 2014, 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. By e-mail dated April 19, 2014, the complainant made a request to the respondents for the following:
  - a. "copies of all e-mails and phone records by Angela Finelli to William Fritz or any town of Clinton employee, and any member of the Clinton police department regarding payroll reports, Seth Wolfe, Clinton police time sheets or time cards, and FOI requests between March 1, 2014 to April 16, 2014;
  - b. copies of invoices and paid receipts for all payroll computer programs used by the Clinton police department and town of Clinton;
  - c. copies of all invoices for outside road jobs conducted by Clinton Police Department for July 1, 2010 to August 31, 2010;
  - d. word documents containing names of all contacts the town of Clinton uses within the state of Connecticut IRS for tax

reporting purposes and the spending of Clinton, Connecticut tax dollars . . . [t]he information should include contact names, phone numbers, e-mails and job titles; and

- e. word document[s] containing all agencies [from which] the Town of Clinton receives funding . . . for the Clinton police department from state and federal sources and any other sources other than Clinton tax payers . . . [t]he record should include the names of contacts, phone numbers, e-mails, and job title within each agency.”

3. By e-mail dated and filed on April 29, 2014, the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to comply with his records request.

4. 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.

5. 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, (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.

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

7. It is found that the requested records described in paragraph 2, above, to the extent they exist, are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

8. At the hearing on this matter, the complainant stated, and it is found, that the respondents provided all records responsive to his April 19, 2014 request except for those requested in paragraphs 2a and 2b, above, on or about October 22, 2014.

9. With respect to the complainant's records request for e-mails as described in paragraph 2a, above, it is found that the e-mails were not provided for the following reasons:

- a. initially the request was inadvertently misplaced; and
- b. the town's information technology personnel (the only person within the town with skills to retrieve the e-mails) was unavailable due to a family medical emergency.

10. It is found that by e-mail dated October 23, 2014, the respondents provided the complainant with the e-mails responsive to his request.

11. With respect to the complainant's records request for phone records, as described in paragraph 2a, above, the Commission takes administrative notice of the record and decision in Docket #FIC2014-278, which dealt with whether the respondents maintained records responsive to the complainant's request for the same type of phone records.

12. Specifically, the Commission takes administrative notice of paragraphs 4, 10, 11, and 12 of the final decision in Docket #FIC2014-278, which provide:

4. It is found that the respondents on May 23, 2014 provided copies [of] all records in their custody that were responsive to the complainant's request.

10. The complainant maintains that additional responsive records exist.

11. It is found that there is no reason to believe that additional records exist. Further, it is found that the respondents provided all records responsive to the complainant's request.

12. It is concluded that the respondents did not violate the FOI Act as alleged.

13. It found that the complainant provided no new evidence which would support a finding that the respondents maintain the type of phone records he requested as described in paragraph 2a, above. Therefore, it is found that there remains no reason to believe that such records exist.

14. With respect to the requested records described in paragraph 2b, above, it is found that such records do not exist. It is found that to the extent such records ever existed, they would have been destroyed pursuant to the respondents' record destruction authorization issued by the Connecticut State Library, Office of the Public Records Administrator on August 19, 2013.

15. The respondents conceded at the hearing, and it is found, that they failed to comply promptly with the complainant's request.

16. Consequently, it is found that the respondents, although not intentionally, violated the promptness provisions of the §§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. Henceforth, the respondents shall comply with the promptness provisions of §§1-210 and 1-212, G.S.

  
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Attorney Tracie C. Brown  
as Hearing Officer