## FREEDOM OF INFORMATION COMMISSION OF THE STATE OF CONNECTICUT

against Docket #FIC78-212 ) City and Town of Hartford; and City Manager of the City and Town of Hartford, Respondents )	In the Matter of a Complaint by Robert F. Ludgin, Complainant	) Report of Hearing Officer
City Manager of the City and )	against	) Docket #FIC78-212
<b>\</b>	City Manager of the City and	November 21, 1978

The above captioned matter was heard as a contested case on November 17, 1978, 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:

- 1. The respondents are public agencies as defined by \$1-18a(a), G.S.
- 2. On October 25, 1978, the complainant requested from the City Manager a copy of a certain audit report dated October 4, 1978.
- 3. The complainant's request was denied by the City Manager on October 25, 1978 and October 31, 1978.
- 4. From such denial, the complainant filed the present appeal with the Commission on October 31, 1978 asserting his right to receive a copy of the requested record under the Freedom of Information Act.
- 5. At hearing, the respondents contended that the audit report in question was exempt from mandatory disclosure under \$1-19(b)(1), G.S. as constituting a preliminary draft or note.
- 6. This Commission, in determining whether a given document constitutes a preliminary draft or note within the meaning of \$1-19(b)(1), G.S., must look to the stage of completion of the document itself and not the governmental process which gave rise to the preparation of the document.
- 7. A document is no longer a preliminary draft or note when it, through a process of government, passes into the hands of third parties, other than the preparer, for independent action.

- 8. On September 15, 1978 the internal audit department of the City of Hartford began an audit of the expenditures of certain city funds by the Community Development Energy Corp.
- 9. The report in question is a statement of the findings of a certain city auditor based upon the status of his investigations relating to such audit as of October 4, 1978.
- 10. Such report is completed although the governmental audit, of which it is a part, is not yet concluded.
- 11. Several separate reports, containing findings, have been prepared by other individuals within the internal audit department of the City of Hartford based upon the requested October 4, 1978 report.
- 12. Several city public officials are the subject of the requested October 4, 1978 report. These officials have been provided with copies of the same in order to allow them a period of time in which to refute the contents of such report.
- 13. Many other city officials have been provided with copies of the requested report. Several such officials were given the October 4, 1978 report because they had some responsibility over the funds that are the primary subject of the governmental audit begun on September 15, 1978.
- 14. The requested October 4, 1978 audit report is found not to constitue a preliminary draft or note within the meaning of \$1-19(b)(1), G.S.
- 15. Such report is further found to constitute a public record within the meaning of §1-18a(d), G.S.
- 16. It is concluded that the respondents have denied the complainant his right to promptly receive a copy of such public record, as required by §1-15, G.S.

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

1. The respondent shall within one (1) day of receipt of notice of Final Decision hereof provide the complainant with a plain copy of the October 4, 1978 report.

ommissioner Helen M. Lo

as Hearing Officer