



# FREEDOM OF INFORMATION

Connecticut Freedom of Information Commission · 18-20 Trinity Street, Suite 100 · Hartford, CT 06106  
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Louise Czar,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2015-799

Chief, Bantam Fire Company, Town of Bantam;  
and Bantam Fire Company, Town of Bantam,  
Respondent(s)

September 26, 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 Thursday, October 13, 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 October 5, 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 October 5, 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 October 5, 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

Cynthia A. Cannata  
Acting Clerk of the Commission

Notice to: Louise Czar  
Chief, Bantam Fire Company, Town of Bantam; and  
Bantam Fire Company, Town of Bantam

2016-09-26/FIC# 2015-799/Trans/wrbp/VDH//LFS

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Louise Czar,

Complainant

against

Docket #FIC 2015-799

Chief, Bantam Fire Company,  
Town of Bantam; and  
Bantam Fire Company,  
Town of Bantam,

Respondents

September 26, 2016

The above-captioned matter was heard as a contested case on August 29, 2016, 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, the matter was consolidated with Docket #FIC 2016-0434; Louise Czar v. Edward Brown, President, Bantam Fire Company; and Bantam Fire Company.

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 letter dated November 20, 2015 and filed November 23, 2015, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information Act ("FOI Act") in the following ways:
  - a. Creating a designated area for members of the public to sit while a public meeting is taking place; and
  - b. Entering into an execution session at the November 3, 2015 meeting without first making a motion and obtaining an affirmative vote of two-thirds of the members present and voting.

3. Section 1-200(6), G.S., provides, in relevant part, as follows:

“Executive sessions” means a meeting of a public agency at which the public is excluded for one or more of the following purposes: . . . (B) strategy and negotiations with respect to pending claims or pending litigation to which the public agency or a member thereof, because of the member’s conduct as a member of such agency, is a party until such litigation or claim has been finally adjudicated or otherwise settled . . . .

4. It is found that the Bantam Fire Company is a purely volunteer agency, with no individual holding a salaried or paid position.

5. It is found that the Bantam Fire Company held a regular meeting on November 3, 2015.

6. With respect to the allegation described in paragraph 2.a, above, it is found that, at the start of the November 3, 2015 meeting, Edward Brown, the President of the Bantam Fire Company, asked the complainant to sit in an area designated for the members of the public. It is found that the complainant did not like the designated public seating.

7. It is found that the complainant did not claim that she could not hear or see the November 3<sup>rd</sup> proceedings from the respondents’ designated seating area.

8. With respect to the allegation described in paragraph 2.a, above, it is concluded that the complainant has failed to allege a violation of the FOI Act.

9. With respect to the allegations described in paragraphs 2.b and 2.c, above, §1-225(f), G.S., provides as follows:

A public agency may hold an executive session as defined in subdivision (6) of section 1-200, upon an affirmative vote of two-thirds of the members of such body present and voting, taken at a public meeting and stating the reasons for such executive session, as defined in section 1-200.

10. It is found that, sometime after the November 3<sup>rd</sup> meeting was convened, the President announced that the meeting was moving into an executive session. It is found that the purpose of this session was to discuss legal strategy. It is found, however, that no vote was taken to move the meeting into executive session. It is further found that the complainant left the room while the respondents convened in executive session and returned to the room once the session was over. Finally, it is found that the complainant was the only person other than the fire company members who was in attendance at the respondents’ November 3<sup>rd</sup> meeting.

11. By failing to conduct a vote and obtain the agreement of two-thirds of the members of present and voting to move the meeting into an executive session, the respondents violated

the provisions of §1-225(f), G.S., as alleged in paragraph 2.b, above.

12. The Commission notes that the President testified that it is only of late that the respondents are experiencing a public presence at their meetings. In fact, it is found that the November 3<sup>rd</sup> meeting was the first time that the President ever had to move a meeting from an open session to an executive session. It is further found that, since the time of the November 3<sup>rd</sup> meeting, the President has contacted the FOI staff for assistance with this issue.

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 strictly comply with the requirements of §1-225(f), G.S.



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Valicia Dee Harmon  
as Hearing Officer