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Richard Groski,
Complainant(s)
against

Chairman, Housing Authority, Town of Brookfield; and Housing Authority, Town of Brookfield,
Respondent(s)

Notice of Meeting

Docket #FIC 2016-0828

June 2, 2017

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, June 28, 2017.** 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 June 14, 2017***. 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 June 14, 2017***. **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 June 14, 2017***, 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: Richard Groski
Attorney Thomas W. Beecher

FIC# 2016-0828/Trans/MS/KKR/TCB/wrbp/2017-06-02

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by | Report of Hearing Officer

Richard Groski,

Complainant

against | Docket #FIC 2016-0828

Chairman, Brookfield Housing Authority;
and Brookfield Housing Authority,

Respondents | April 12, 2017

The above-captioned matter was heard as a contested case on March 29, 2017, at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint. The case caption has been amended to correctly identify the name of the respondent housing authority. For purposes of hearing, this matter was consolidated with Docket #FIC 2016-0889, Richard Groski v. Chairman, Brookfield Housing Authority; and Brookfield Housing Authority.

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 email dated and filed November 25, 2016, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by convening in executive session for an improper purpose during the November 15, 2016 regular meeting of the respondent housing authority ("housing authority").

3. It is found that the housing authority held a regular meeting on November 15, 2016 ("meeting"), and that its members convened in executive session during the meeting. At the hearing in this matter, the respondents argued that the discussion in executive session was permitted under §§1-200(6)(E) and 1-210(b)(24), G.S.

4. Section 1-225(a), G.S., provides, in relevant part:

> [t]he meetings of all public agencies, except executive sessions, as defined in subdivision (6) of section 1-200, shall be open to the public....

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

> 'Executive sessions' means a meeting of a public agency at which the public is excluded for one or more of the following purposes: ...(E) discussion of any matter which would result in the disclosure of public records or the information contained therein described in subsection (b) of section 1-210.

6. Section 1-210(b)(24), G.S., provides that disclosure of is not required of:

> [r]esponses to any request for proposals or bid solicitation issued by a public agency or any record or file made by a public agency in connection with the contract award process, until such contract is executed or negotiations for the award of such contract have ended, whichever occurs earlier, provided the chief executive officer of such public agency certifies that the public interest in the disclosure of such responses, record or file is outweighed by the public interest in the confidentiality of such responses, record or file. (Emphasis added).

7. It is found that, at some time prior to the meeting, the housing authority began a search for a new property management company. It is found that, although the housing authority did not issue a formal request for proposal, it solicited and received bids from several candidates. It is found that the chairman of the housing authority determined that the only "serious" bid came from DeMarco Property Management.

8. It is found that the agenda for the meeting stated: "Executive Session – DeMarco Management Proposal for BHA," and that, during the executive session, the members discussed the terms of DeMarco's proposal.

9. The chairman of the housing authority testified that, at the time of the executive session, negotiations for the award of the management contract were ongoing.

10. It is found, however, that the respondents offered no evidence that chairman of the housing authority, who is its "chief executive officer," certified that the public interest in the disclosure of the DeMarco proposal was outweighed by the public interest in the confidentiality of that proposal.

11. Accordingly, it is concluded that the respondents failed to prove that the DeMarco proposal was exempt from disclosure pursuant to §1-210(b)(24), G.S. It is further concluded that the respondents thus failed to prove that there was a proper basis for the executive session pursuant to §1-200(6)(E), G.S.

12. Based upon the foregoing, it is concluded that the respondents violated §1-225(a), G.S., as alleged in the complaint.

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 §1-225(a), G.S.

Commissioner Matthew Streeter
as Hearing Officer

FIC 2016-0828/hor/kkr/04122017