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FREEDOM OF INFORMATION



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Carolyn Sires

Complainant(s)

against

Director, Housing Authority, Town of Branford; and
Housing Authority, Town of Branford

Respondent(s)

Notice of Meeting

Docket #FIC 2016-0739

July 19, 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, 1st floor, Hartford, Connecticut, at **2 p.m. on Wednesday, August 9, 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 July 28, 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 July 28, 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 July 28, 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

Wendy R.B. Paradis
Acting Clerk of the Commission

Notice to: Carolyn Sires
Attorney Peter A. Berdon

FIC# 2016-0739/ITRA/KKR/TAH/WRBP/2017-07-19

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Carolyn Sires,

Complainant

against

Docket #FIC 2016-0739

Director, Housing Authority,
Town of Branford; and Housing
Authority, Town of Branford,

Respondents

July 7, 2017

The above-captioned matter was heard as a contested case on March 28, 2017, at which time the complainant and the respondents appeared 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. It is found that, by letter dated October 4, 2016, the complainant requested from the respondents the opportunity to inspect or obtain copies of:
 - (a) records of all communications between the board members of the Branford Housing Authority and Beacon Properties from 2013 to present;
 - (b) all solicitations of bids for renovation of Parkside Village from 2011 to current; and
 - (c) annual budgets, minutes, bids and proposals from 2011 to present.

3. It is found that, by letter dated October 11, 2016, counsel for the respondents acknowledged the request, described in paragraph 2, above, and informed the complainant that “minutes, agendas and adopted budgets...are available for inspection and copying at the town clerk’s office...during normal business hours.” Counsel further informed the complainant that the remainder of the records she requested “are available for inspection and copying at the Authority’s offices...during its regular business hours.” Counsel instructed the complainant, in his letter, to contact his office to make an appointment to visit the housing authority, because

the Authority's office is "small, with limited staff who may be out of the office visiting residents, or using the office for confidential tenant meetings."

4. It is found that, shortly after the complainant received the letter, described in paragraph 3, above, she went to the town clerk's office to inspect the minutes and budgets, as instructed by respondents' counsel.¹ It is found that the town clerk told her that although she had some meeting minutes on file, she did not maintain the minutes of all meetings, and that she did not have on file copies of the housing authority's adopted budgets.

5. By letter, dated October 14, 2016, and filed October 20, 2016, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to "answer" her request for records.

6. It is found that, sometime between October 14 and October 20, 2016, the complainant telephoned counsel for the respondents and left a voicemail message for him informing him that the records, described in paragraph 4, above, were not available at the town clerk's office.

7. It is found that, by letter dated October 21, 2016, counsel for the respondents again informed the complainant that "most of the records you requested are available at the Branford Town Clerk's office during its normal business hours." Counsel further informed the complainant that "certain specific items as detailed in our letter as requested by you are available at the offices of the Housing Authority," and that if she wished to view those documents that are solely in the possession of the Housing Authority," she should contact their office to make an appointment to do so."

8. It is found that, on November 14, 2016, the complainant arrived at the office of the housing authority without an appointment, and was told by a volunteer in the office that she had no knowledge of the complainant's FOI request. It is found, therefore, the complainant was unable to inspect any records at that time.

9. It is found that, by letter dated February 3, 2017, the respondents provided to the complainant a copy of the housing authority's financial statements and independent auditor's report for 2012 and 2013.

10. The complainant testified that, as of the date of the hearing, she still had not had an opportunity to inspect or obtain copies of the minutes from 2011 to the present, and that she had not made an appointment to view the remainder of the requested records at the housing authority's office. The respondents' witness testified that, as of the date of the hearing in this matter, all responsive records that the housing authority maintains had been gathered and were physically located at the housing authority's office, and that she could go and inspect or copy them. However, the witness was unable to testify whether or not all

¹ Although counsel referenced agendas in his letter, the complainant did not request agendas. See paragraph 2, above.

responsive records were located at the housing authority's office at the time of the request or at the time counsel directed the complainant to such office to view these records.

11. It is found that the minutes of all meetings of the housing authority that took place from 2011 to present were not on file with the town clerk's office at the time of the complainant's request. Although the respondents' witness testified that some of the meetings of the housing authority were cancelled during this time period due to lack of a quorum, he was unable to identify which meetings were cancelled. Curiously, although counsel for the respondents, in his October 4 and October 11 letters, directed the complainant to the town clerk's office to inspect or obtain a copy of the minutes, counsel also claimed, at the hearing in this matter, that the housing authority is a state agency and therefore is not required to file its minutes with the town clerk.

12. With regard to the minutes, §1-225(a), G.S., provides that:

(a)[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. The votes of each member of any such public agency upon any issue before such public agency shall be reduced to writing and made available for public inspection within forty-eight hours and shall also be recorded in the minutes of the session at which taken. Not later than seven days after the date of the session to which such minutes refer, such minutes shall be available for public inspection and posted on such public agency's Internet web site, if available, except that no public agency of a political subdivision of the state shall be required to post such minutes on an Internet website. Each public agency shall make, keep and maintain a record of the proceedings of its meetings. (Emphasis added).

13. Section 1-210(a), G.S., requires all public agencies to "keep and maintain all public records in its custody at its regular office or place of business in an accessible place, and, if there is no such office or place of business, the public records pertaining to such agency shall be kept in the office of the [town] clerk...or of the Secretary of the State, as the case may be."

14. It is found that the housing authority maintains an office or place of business. However, it is also found that the respondents failed to prove that they kept and maintained the minutes of the housing authority's meetings from 2011 to present in an accessible place at their office, at the time of the complainant's request.²

² Counsel for the respondents represented at the hearing in this matter that he directed the complainant to the town clerk's office, rather than to the housing authority's office, to inspect or copy the minutes, because he assumed such minutes were kept there as well as in the housing authority's office, and he believed that it would have been more convenient for her to access the minutes at the clerk's office. The Commission notes that counsel's apparent failure to check with the town clerk to determine whether copies of the minutes or adopted

15. Accordingly, it is concluded that the respondents violated §§1-225(a) and 1-210(a), G.S., with respect to the request for the minutes.

16. With regard to the remainder of the records, described in paragraph 2, above, it is found that the respondents failed to prove that they kept and maintained such records in an accessible place at their office, at the time of the complainant's request.

17. It is concluded therefore, that the respondents violated §§1-225(a) and 1-210(a), G.S., with respect to the remainder of the records, described in paragraph 2, above.

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

1. Forthwith, the respondents shall provide a copy of all records responsive to the request, described in paragraph 2, above, to the complainant, free of charge.

2. Henceforth, the respondents shall strictly comply with §§1-210(a), 1-212(a), and 1-225(a), G.S.

3. Henceforth, the respondents shall maintain its records in an accessible place at its office or place of business.



Kathleen K. Ross
as Hearing Officer

FIC2016-0739/hor/kkr/07072017

budgets were actually on file in that office prior to twice directing her there, significantly contributed to conflict between the complainant and the respondents that was apparent at the hearing in this matter.