



FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
Toll free (CT only): (866)374-3617 Tel: (860)566-5682 Fax: (860)566-6474 • www.state.ct.us/foi/ • email: foi@po.state.ct.us

Lynelle Jones,
Complainant(s)

against

Office of the Tax Assessor, City of Norwalk; and
City of Norwalk,
Respondent(s)

Notice of Rescheduled
Commission Meeting

Docket #FIC 2012-543

April 16, 2013

This will notify you that the Freedom of Information Commission has rescheduled the above-captioned matter, which had been noticed to be heard on Wednesday, April 24, 2013 at 2 p.m.

The Commission will consider the case at its meeting to be held at the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, 1st floor, Hartford, Connecticut, at **2:00 p.m. on Wednesday, May 22, 2013.**

Any brief, memorandum of law or request for additional time, as referenced in the March 25, 2013 Transmittal of Proposed Final Decision, should be received by the Commission on or before May 10, 2013.

By Order of the Freedom of
Information Commission

W. Paradis
Acting Clerk of the Commission

Notice to: Lynelle Jones
Brian L. McCann, Esq.

2013-04-16/FIC# 2012-543/ReschedTrans/wrbp/VDH//KKR

Since 1975



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Lynelle Jones,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2012-543

Office of the Tax Assessor, City of Norwalk; and
City of Norwalk,
Respondent(s)

March 25, 2013

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, April 24, 2013**. 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 April 12, 2013**. 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, the Commission requests that an **original and fourteen (14) copies** be filed **ON OR BEFORE April 12, 2013**. 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 April 12, 2013**, 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: Lynelle Jones
Brian L. McCann, Esq.

2013-03-25/FIC# 2012-543/Trans/wrbp/VDH//KKR

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Lynelle Jones,

Complainant

against

Docket #FIC 2012-543

Office of the Tax Assessor,
City of Norwalk; and
City of Norwalk

Respondents

March 21, 2013

The above-captioned matter was heard as a contested case on March 1, 2013, at which time the complainant appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint, but the respondents did not appear at the hearing. The hearing, which was scheduled to begin at 9:30 AM, was delayed until almost 10:00 AM so that it could be determined if counsel for the respondents was running late. Shortly after the commencement of the hearing, the hearing officer was informed that counsel for the respondents was on the telephone requesting to appear at the hearing telephonically. Counsel's request was denied.

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, on September 18, 2012, the complainant went to respondent Tax Assessor's office during regular business hours and requested access to the following records: a) the minutes from the May 29, 2009 meeting of the Board of Assessment Appeals; b) the appraisal of her residential property, 10 Point Road, in Norwalk, Connecticut, performed by Sheeney Associates LLC; and c) all correspondence between the Office of the Tax Assessor and Bill Sheeney of Sheeney Associates LLC concerning 10 Point Road, in Norwalk, Connecticut.
3. By letter dated and filed October 4, 2012, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by denying her request for access to the records described in paragraph 2, above.

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

. . . 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 . . . Each public agency shall make, keep and maintain a record of the proceedings of its meetings.

8. It is found that the complainant has been involved in ongoing dispute with the City of Norwalk over the value of her residential property.

9. In connection with the dispute, it is found that the complainant visited the respondents’ offices on September 18, 2013 to review the records described in paragraph 2, above.

10. It is found that, on September 18, 2012, the respondents did not provide the complainant with access to the records she wanted to review. It is further found that, at such time, the respondents informed the complainant that they did not maintain any records responsive to her request, that such records were exempt from disclosure or that such records were archived.

11. With regard to the complainant's request for a copy of the minutes from the Board of Assessment Appeals ("BAA") described in paragraph 2.a, above, it is found that the BAA works under the auspices of the Office of the Tax Assessor. It is found that, on May 29, 2009, the BAA held a hearing with regard to the complainant's residential property and, after a vote by the membership, issued a decision.

12. It is found that the BAA's action on May 29, 2009 should have resulted in both a record of the votes taken, which record should have been available for public inspection with forty-eight hours, as well as a record of the minutes from the May 29, 2009 hearing, which record should have been available for public inspection within seven days. It is further found that such records should have been available for the complainant's inspection on September 18, 2012 in the Office of the Tax Assessor.

13. With regard to the complainant's request for a copy of the appraisal described in paragraph 2.b, above, it is found that, by invoice dated April 27, 2012, Sheehy Associates LLC submitted an invoice to the City of Norwalk's legal department for payment of an appraisal it performed. It is found that the invoice described the work performed as "Appraisal of 10 Point Road, Norwalk, CT -- Jones/Lipschutz Residence." It is found that the invoice was for payment of \$1,500.00.

14. It is further that, when the complainant sought access to the appraisal on September 18, 2012, the respondents informed her that she should be able to review such record, but that they did not have it.

15. It is found that the complainant was present when the appraiser took pictures both inside and outside of her residential property. It is further found that, on May 3, 2012, the city approved the \$1,500 payment to Sheehy Associates LLC for the appraisal. It is therefore found that the Sheehy appraisal does exist.

16. It is found that the appraisal is a public record and that the complainant should have been given access to it. It is further found that, if the respondents have somehow misplaced their copy of the appraisal, they should certainly be able to request Sheehy Associates LLC provide them with another copy.

17. With regard to the records described in paragraph 2.c, above, it is found that, to the extent that the Office of the Tax Assessor communicated in writing with Bill Sheehy about the appraisal or any other matter pertaining to 10 Point Road in Norwalk, Connecticut, such communication is a public record, to which the complainant should have been given access.


18. It is concluded that that the respondents violated the disclosure provisions of §§1-210(a) and 1-212(a), G.S., by denying the complainant's request for access to 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. The respondents shall forthwith provide the complainants with a copy of the records described in paragraph 2 of the findings, free of charge.

2. In the event that the respondents do not maintain the minutes described in paragraph 2.a of the findings, they shall forthwith provide the complainant with an affidavit attesting to such fact.

3. In the event that the respondents do not maintain the correspondence described in paragraph 2.c of the findings, they shall forthwith provide the complainant with an affidavit attesting to such fact.



Valicia Dee Harmon
as Hearing Officer