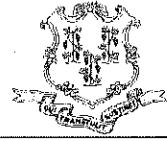


Since 1975



FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
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Charles Setaro,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2014-524

City Council, City of Danbury; and City of Danbury,
Respondent(s)

April 30, 2015

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, May 27, 2015**. 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 May 15, 2015**. 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 May 15, 2015**. **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 May 15, 2015**, 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: Charles Setaro
Laszlo L. Pinter, Esq.

2015-04-30/FIC# 2014-524/Trans/wrbp/TCB//TAH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Charles Setaro,

Complainant

against

Docket #FIC 2014-524

City Council, City of Danbury;
and City of Danbury,

Respondents

April 2, 2015

The above-captioned matter was heard as a contested case on March 26, 2015, 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 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 August 5, 2014, and filed on August 7, 2014, the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to comply with the notice provision of §1-225(d), G.S.
3. Section 1-225(d), G.S., provides in relevant part that "...[t]he notice shall specify the time and place of the special meeting *and the business to be transacted.*" [Emphasis added.]
4. It is found that the respondent City Council held a special meeting on July 24, 2014, the notice for which was timely filed with and posted by the respondent City's clerk and posted on the respondent city's web site.
5. However, it is also found that the notice failed to specify the business to be transacted at the meeting.

6. At the hearing on this matter, the respondents argued that the provisions of §1-225(d), G.S., cited in paragraph 3, above, apply only to emergency special meetings and that there is no requirement that the notice of a special meeting include an agenda.

7. It is concluded, however, that the respondents' interpretation of §1-225(d), G.S., is inaccurate in that §1-225(d), G.S. also provides that no notice at all is required for emergency special meetings.¹ It is concluded, therefore, that it would be unreasonable to construe the provisions in §1-225(d), G.S., to mean that notice for an emergency special meeting must specify the time, place, and the business to be transacted where no notice for such meeting is required at all.

8. This Commission's opinion in Advisory Opinion #42 is clear in this regard stating that:

Special meetings, on the other hand, are scheduled between, or in the absence of, regular meetings. Notice of each special meeting must be posted in the office of the Secretary of the State or the appropriate municipal clerk, as the case may be. The notice must be posted at least 24 hours prior to the convening of the meeting; and it must set forth in particular the time, place and specific business to be transacted at such meeting. Notice must also be given to each agency member, as described in §1-21. Special meetings are designed to give an agency flexibility in dealing with business that was not anticipated when the schedule of regular meetings was filed and which, in the agency's judgment, should be treated before its next regular meeting.

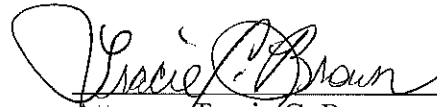
Emergency meetings do not require advance public notice, although they have more stringent minutes requirements, including a statement of the nature of the emergency justifying such a meeting. These meetings are likewise designed to give an agency flexibility in dealing with matters that necessitate immediate agency consideration, and therefore 24 hours' advance notice for a special meeting is not possible.

9. Consequently, it is concluded that the respondents violated the notice provisions of §1-225(d), G.S., by failing to specify the business to be transacted at its July 24, 2014 special meeting in the notice for that meeting.

¹Section 1-225(d), G.S., provides in relevant part that "...notice shall be given not less than twenty-four hours prior to the time of the special meeting; provided, *in case of emergency, ... any such special meeting may be held without complying with the foregoing requirement for the filing of notice* but a copy of the minutes of every such emergency special meeting adequately setting forth the nature of the emergency and the proceedings occurring at such meeting shall be filed with ... the clerk of such political subdivision, or the clerk of each municipal member of such multitown district or agency, as the case may be, not later than seventy-two hours following the holding of such meeting." [emphasis added]

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 notice provisions of §1-225(d), G.S.



Attorney/Tracie C. Brown
as Hearing Officer