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FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
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Anthony D'Angelo,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2015-139

Chairman, Lake Zoar Authority; and Lake Zoar Authority,
Respondent(s)

September 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, October 28, 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 October 16, 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 October 16, 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 October 16, 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: Anthony D'Angelo
Chairman, Lake Zoar Authority
Lake Zoar Authority

2015-09-30/FIC# 2015-139/Trans/wrbp/PSP//TAH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Anthony D'Angelo,

Complainant

against

Docket #FIC 2015-139

Chairman, Lake Zoar Authority;
and Lake Zoar Authority,

Respondents

August 4, 2015

The above-captioned matter was heard as a contested case on July 14, 2015, at which time the complainant appeared and presented testimony, exhibits and argument on the complaint. The respondents failed to appear.

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 facsimile, dated and filed February 20, 2015, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information Act by failing to file or make available the minutes of the January 6, 2015 regular meeting of the respondent Lake Zoar Authority ("LZA"), within seven days of such meeting. The complainant also requested that the Commission order the respondents to make its public records, including meeting minutes, available in the Town Clerk's Office for the Town of Southbury. In addition, at the hearing in this matter, the complainant requested the imposition of civil penalties against the respondents.
3. It is found that, on January 6, 2015, LZA held a regular meeting at the Southbury Town Hall. It is found that, prior to filing his complaint with the Commission, the complainant searched for, but was unable to locate, the minutes of the January 6th meeting on the LZA website and the town's website. It is also found that the complainant exchanged several emails with the respondents regarding the availability of the January 6th meeting minutes. It is found that by email dated February 13, 2015, the respondents informed the complainant that the LZA's "secretary had computer issues and wasn't able to distribute the minutes through the normal channels" and "[s]he may have to send out hard copies to the commissioners and towns as option 2. This will delay posting on the web but the towns will each have their own copy." In addition, it is found that by email dated February 20, 2015, a LZA Commissioner informed the

complainant that he was “still waiting for an answer on the January minutes” and that the LZA “will discuss what measures need to be taken to assure a delay in reporting the minutes will not happen again in the future.”

4. It is found that as of February 20th the minutes of the January 6th meeting were not yet available to the complainant and the public. It is also found that such minutes were received and filed with the Southbury Town Clerk’s Office on February 23, 2015.

5. Section 1-225, G.S., provides in relevant part 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.

6. Section 1-210(a), G.S., provides in relevant part that:

...Each [public] agency shall 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 clerk of the political subdivision in which such public agency is located....

7. Although §1-225(a), G.S., does not specify the location where the meeting minutes are to be made available, §1-210(a), G.S., requires a public agency to keep and maintain all of its public records in its custody at its regular office or place of business in an accessible place. If the agency does not maintain a regular office or place of business, then the agency is required to make its public records available in the office of the clerk of the political subdivision in which the public agency is located, within the specified time frames.

8. The Commission takes administrative notice of its final decision in Docket #FIC 2005-054; Anthony M. D’Angelo v. Board of Commissioners, Lake Zoar Authority (January 25, 2006), where the Commission concluded that the Board of Commissioners for the Lake Zoar Authority violated §1-210(a), G.S., by failing to maintain the LZA’s public records in its custody at either a

regular office or place of business in an accessible place, or to maintain such records in the appropriate clerk's office, within the meaning of §1-210(a), G.S. In Docket #FIC 2005-054, the Commission ordered the respondent to either (a) designate a place as its "regular office or place of business," and specify regular hours when such office or place of business is open to the public, or (b) keep the LZA's records in the office of the clerk of the political subdivision in which the LZA is located.

9. The complainant contends that the LZA does not maintain a "regular office or place of business" and therefore the LZA is required to maintain its records in the office of the clerk of the political subdivision in which the LZA is located.

10. It is found that the LZA consists of the Towns of Monroe, Newtown, Oxford and Southbury. It is found that the LZA's mailing address is P.O. Box 931, Southbury, CT 06488. It is found that there is no evidence in the record that the LZA has designated a specific place as its "regular office or place of business" or that the LZA keeps its records in the office of the clerk of the political subdivision in which such public agency is located. It is found however that the LZA has filed minutes, at least with respect to one of its meetings, with the Southbury Town Clerk's Office.

11. It is found that although the respondents ultimately filed the January 6th meeting minutes with the Southbury Town Clerk, such minutes were not available to the complainant or the public within seven days of the January 6th meeting. It is found that the respondents failed to make the January 6th meeting minutes available to the complainant and the public in accordance with the requirements set forth in §1-225(a), G.S.


12. Based upon the foregoing, it is concluded that the respondents violated the FOI Act, as alleged in the complaint.

13. The Commission in its discretion declines to consider the imposition of a civil penalty in this matter.

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

1. If they have not done so, the respondents shall, as similarly ordered by the Commission in Docket #FIC 2005-054, (a) designate a place as its "regular office or place of business," and specify regular hours when such office or place of business is open to the public, or (b) keep the LZA's records in the office of the clerk of the political subdivision in which the LZA is located. The respondents shall provide notice to the complainant and the Commission of their decision, within 30 days of the Commission's final decision. If the respondents have already designated a place as its "regular office or place of business" or are maintaining the LZA's records in the office of the clerk of the political subdivision in which the LZA is located, the respondents shall provide notice to the complainant and the Commission, within 30 days of the Commission's final decision.

2. Henceforth, the respondents shall file the minutes of their meetings in accordance with §1-225, G.S.


Paula S. Pearlman
as Hearing Officer

FIC2015-139/HOR/PSP/08042015