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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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Jeffrey Gandolfo and Merle Gandolfo,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2015-580

Grove Beach Point Association,  
Respondent(s)

April 8, 2016

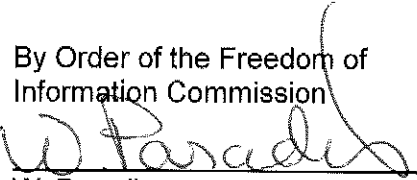
### Transmittal of Proposed Final Decision

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 11, 2016**. 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 29, 2016**. 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 April 29, 2016**. **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 April 29, 2016**, 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: Attorney Thomas Cronan  
Attorney Kenneth Slater

2016-04-08/FIC# 2015-580/Trans/wrbp/VRP/VB

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Jeffrey Gandolfo and Merle Gandolfo,

Complainants,

against

Docket #FIC 2015-580

Grove Beach Point Association,

Respondent

April 7, 2016

The above-captioned matter was heard as a contested case on December 28, 2015, at which time the complainants and the respondent 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 respondent is a public agency within the meaning of §1-200(1), G.S.
2. By letter of complaint filed September 8, 2015, the complainants appealed to this Commission, alleging that the respondent violated the Freedom of Information ("FOI") Act by denying their request for copies of records pertaining to the respondent's legislative charter.
3. It is found that the respondent was created by act of the General Assembly in 1945, which granted the respondent taxing power, police power, and other related powers normally incident to a beach association of property owners.
4. It is found that the respondent's charter currently contains a provision limiting construction on lettered lots, one of which is owned by the complainants. Specifically, Section 18 paragraph 3 of the current charter provides:

Houses, cottages or dwellings shall be restricted to location and erected only on the main numbered lots, thus 1, 121, etc. No house, cottage or dwelling shall be located or erected on sub-lettered lots, thus 95-A, 121-A, etc., 95-B, 101-B, etc. These lots are available only for garages, docks, etc., depending upon location.
5. It is found that the provision limiting construction on lettered lots was not in the original 1945 charter.

6. It is found that the respondent's charter was amended by the General Assembly in 1947 and 2005.

7. It is found that the complainants, by letter dated August 6, 2015, sought, among other records no longer at issue, any record, such as an agenda, minutes or record of vote, in the custody of the respondent that would show when and how the respondent took up the business of revising their charter to limit construction on lettered lots.

8. It is found that the respondent conducted a diligent search in response to the complainant's request, and, although it located a number of responsive records, it did not locate any record that would specifically show the genesis of the amendment to the charter permitting the limitation of construction on lettered lots.

9. 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.

10. 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.

11. Section 1-212(a), G.S., provides in relevant part: “Any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

12. Section 1-225(a), G.S., provides in relevant part: “Each public agency shall make, keep and maintain a record of the proceedings of its meetings.”

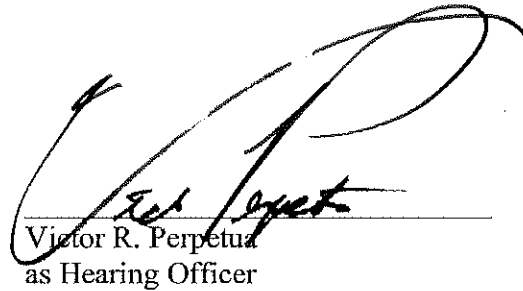
13. It is found that the requested records are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

14. It is found that the respondent provided all the records in its custody that are responsive to the complainant's request, although such records do not appear to provide the specific information sought by the complainant—i.e., records of the genesis of section 18 paragraph 3 of the current charter.

15. It is concluded that the respondents did not violate §§1-210(a) and 1-212(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. The complaint is hereby dismissed.



Victor R. Perpetua  
as Hearing Officer