

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

David Fuller,

Complainant

against

Docket #FIC 2016-0545

Town Council, Town of Stratford; and
Town of Stratford,

Respondents

January 25, 2017

The above-captioned matter was heard as a contested case on October 17, 2016, 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. It is found that the respondents are public agencies within the meaning of §1-200(1), G.S.
2. By letter filed July 27, 2016, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to describe with sufficient specificity, on the agenda for their July 11, 2016 meeting (“meeting”), the reason for convening in executive session.
3. Section 1-225, G.S., provides, in relevant part:
 - (a) The meetings of all public agencies, except executive sessions, as defined in subdivision (6) of section 1-200, shall be open to the public.
4. Section 1-200(6), G.S., in relevant part, provides:

‘Executive sessions’ means a meeting of a public agency at which the public is excluded ...[for the] (D) discussion of the selection of a site or the lease, sale or purchase of real estate by the state or a political subdivision of the state when publicity regarding such site, lease, sale, purchase or construction would adversely impact the price of such site, lease, sale, purchase or construction until

such time as all of the property has been acquired or all proceedings or transactions concerning same have been terminated or abandoned[.]

5. It is found that the respondents convened a regular meeting on July 11, 2016. It is further found that the agenda for such meeting stated: "Executive session requested re: purchase of property."

6. It is found, based on the respondents' testimony, that the respondents discussed the purchase of real estate when publicity regarding such site, lease, sale, purchase or construction would cause a likelihood of increased price.

7. The Commission has determined that "all matters on an agency's agenda must be sufficiently specific so that the public is fairly apprised of the matters to be considered at the meeting in question." Sherry Disbury and the Terryville/Plymouth Community News v. Police Commission, Town of Plymouth, Docket #FIC 2004-091 (Sept. 8, 2004); Zoning Board of Appeals of the Town of Plainfield, et al. v. FOIC, et al., Superior Court, Judicial District of New Britain, Docket No. 99-0497917-S (May 3, 2000, *Satter, J.*), reversed on other grounds, 66 Conn. App. 279 (2001) (the purpose of a meeting agenda "is that the public and interested parties be apprised of matters taken up at the meeting in order to properly prepare and be present to express their views" and that "[a] notice is proper only if it fairly and sufficiently apprises the public of the action proposed, making possible intelligent preparation for participation in the hearing").

8. The respondents claim that §1-200(6)(D), G.S., permitted them not to describe on the meeting agenda the name or other identifying details about the property under discussion at the executive session, because such publicity at the time of the meeting would have caused a likelihood of increased price. It is found that the respondents presented evidence to reasonably support such claim. *See* Docket # FIC2007-668, Bradshaw Smith v. Donald S. Trinks, as Member, Town Council, Town of Windsor; and Town Council, Town of Windsor (November 12, 2008) (no violation where agenda did not identify parcel of real estate under consideration for purchase to be discussed in executive session and respondents testified credibly that publicity would have caused a likelihood of increased price; *cf* Docket # FIC 2011-141, Robert Fromer v. Director, State of Connecticut, State Properties Review Board; and State of Connecticut, State Properties Review Board (February 22, 2012) (violation where agenda listed "executive session: real estate/Purchase & Sale," and respondents produced no evidence to support claim that publicity would cause a likelihood of increased price).

9. It is concluded that the respondents did not violate 1-225(c), G.S., as alleged.

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.

Approved by Order of the Freedom of Information Commission at its regular meeting of January 25, 2017.



Cynthia A. Cannata
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

David Fuller
48 Sunnybank Avenue
Stratford, CT 06614

Town Council, Town of Stratford; and Town of Stratford
c/o Bryan L. LeClerc, Esq.
Berchem, Moses & Devlin, P.C.
75 Broad Street
Milford, CT 06460



Cynthia A. Cannata
Acting Clerk of the Commission