

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Lorraine Tirella,

Complainant

against

Docket #FIC 2016-0705

Steven S. Macary, Zoning Enforcement  
Official, Town of Oxford; Chairman,  
Planning and Zoning Commission, Town  
of Oxford; Planning and Zoning  
Commission, Town of Oxford; and  
Town of Oxford,

Respondents

April 26, 2017

The above-captioned matter was heard as a contested case on January 4, 2017, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. This matter was consolidated for hearing with Docket #FIC 2016-0749; Lorraine Tirella v. Chairman, Planning and Zoning Commission, Town of Oxford; Planning and Zoning Commission, Town of Oxford; and Town of Oxford.

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 filed October 6, 2016, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to promptly provide records she requested, failing to make minutes available within the time period set forth in the FOI Act, and failing to provide other records. The complainant requested the imposition of a civil penalty.
3. 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, ... whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

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

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, ... or (3) receive a copy of such records in accordance with section 1-212.

5. 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.

6. It is found that the records requested by the complainant are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

7. It is found that, on September 1, 2016, the complainant requested by email a copy of the Zoning Certificate of Compliance for Phase 1 of the Oxford Towne Center.

8. It is found that the respondent Zoning Enforcement Official (“ZEO”) informed the complainant by return email that he would get her a copy of the zoning certificate of compliance “in the next week or two if I have time.”

9. It is found that the ZEO provided a copy of the certificate of compliance on September 15, 2016. It is found that the ZEO failed to provide the record requested by the complainant in a timely manner.

10. It is found that, on September 21, 2016, the complainant asked by email to see a copy of the “complete Dust Control Plan for the site of the property of Haynes/Oxford Towne Center/Quarry walk.” It is found that the complainant did not receive the records she requested, and asked again for the records on October 4, 2016.

11. It is found that the respondents provided the requested Plan – a single page – on October 5, 2016. It is found that the respondents failed to provide such record in a timely manner.

12. It is found that, on October 3, 2016, the complainant requested to see minutes of the respondent commission’s meeting of September 20, 2016. It is found that the complainant wished to review the minutes in preparation for the commission meeting of October 4, 2016. It is found that the respondents’ administrative secretary informed the complainant on October 3, 2016 that the minutes were not yet finished because the commission wanted the minutes to be a verbatim record of the meeting. It is found that the secretary finished transcribing the minutes on October 5, 2016, and emailed them to the complainant on that date.

13. Section 1-225(a), G.S., provides in relevant part: “Not later than seven days after the date of the session to which such minutes refer, such minutes shall be available for public inspection[.]”

14. The respondents concede, and it is found, that the minutes for the commission’s meeting of September 20, 2016, were not available for public inspection within seven days after the date of the meeting.

15. It is found that the complainant also made several requests for a copy of the “legal notice” to abutting property owners concerning the conceptual plan of the Oxford Towne Center.

16. It is found that the respondents provided a copy of the notice they maintain. It is found that the respondents do not maintain any other records responsive to the complainant’s request for “legal notice.”

17. It is concluded that the respondents violated §§1-210(a), 1-212(a), and 1-225(a), G.S., as described in paragraphs 9, 11, and 14, above.

18. After consideration of the entire record in this case, the Commission declines to consider the imposition of civil penalties against the respondent

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 comply with the requirements of §§1-210(a), 1-212(a), and 1-225(a), G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of April 26, 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:

Lorraine Tirella  
11 Larky Road  
Oxford, CT 06478

Steven S. Macary, Zoning Enforcement Official, Town of  
Oxford; Chairman, Planning and Zoning Commission,  
Town of Oxford; Planning and Zoning Commission,  
Town of Oxford; and Town of Oxford  
c/o Peter S. Olson, Esq.  
Land Use and Conservation Counsel  
275 Greenwood Avenue  
Bethel, CT 06801



Cynthia A. Cannata  
Acting Clerk of the Commission