

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Tom Arras,

Complainant

against

Docket #FIC 2016-0745

William Butterly, Jr., First Selectman,
Town of Woodbury; Barbara Perkinson, as
member, Board of Selectmen, Town of
Woodbury; Michael Gransky, as member,
Board of Selectmen, Town of Woodbury;
and Town of Woodbury,

Respondents

June 14, 2017

The above-captioned matter was heard as a contested case on March 21, 2017, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. This case was consolidated for hearing with Docket #FIC 2016-0825, Tom Arras v. William Butterly, Jr., First Selectman, Town of Woodbury; Michael Gransky, as member, Board of Selectmen, Town of Woodbury; Barbara Perkinson, as member, Board of Selectmen, Town of Woodbury; and Town of Woodbury.

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 21, 2016, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by inviting the administrative assistant to the First Selectman to be present during an executive session on September 22, 2016. The complainant requested the imposition of civil penalties and that the Commission declare null and void any action taken by the respondents as a result of the executive session.

3. Section 1-231(a), G.S., provides:

[a]t an executive session of a public agency, attendance shall be limited to members of said body and persons invited by said body to present testimony or opinion pertinent to matters before said body provided that such persons' attendance shall be limited to the

period for which their presence is necessary to present such testimony or opinion and, provided further, that the minutes of such executive session shall disclose all persons who are in attendance except job applicants who attend for the purpose of being interviewed by such agency.

4. It is found that the respondents convened in executive session during their September 22, 2016 meeting to discuss strategy with respect to pending litigation concerning the complainant and historic designation of property.

5. It is found that the respondents invited the administrative assistant into the executive session in case she was needed to provide information about complaints received by the town.

6. It is found, however, that the assistant did not testify or provide opinion at the executive session.

7. It is found that the assistant stayed for the entire executive session.

8. It is found that the presence of the administrative assistant, who was not a member of the respondent board of selectmen, was not permitted pursuant to §1-231(a), G.S.

9. It is therefore concluded that the respondents violated §1-231(a), G.S., by permitting the administrative assistant to be present during the executive session.

10. Under the facts and circumstances of this case, the Commission declines to impose the remedies requested by the complainant.

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 §1-231, G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of June 14, 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:

Tom Arras
P.O. Box 857
Woodbury, CT 06798

William Butterly, Jr., First Selectman, Town of Woodbury;
Barbara Perkinson, as member, Board of Selectmen, Town
of Woodbury; Michael Gransky, as member, Board of
Selectmen, Town of Woodbury; and Town of Woodbury
c/o Thomas A. Kaelin, Esq.
Slavin, Stauffacher & Scott LLC
P.O. Box 323
Woodbury, CT 06798



Cynthia A. Cannata
Acting Clerk of the Commission