

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

John T. Barney and Marek L. Kement,

Complainants

Docket # FIC 2017-0218

against

First Selectman, Town of East Windsor;
and Town of East Windsor,

Respondents

March 28, 2018

The above-captioned matter was heard as a contested case on January 19, 2018, at which time the complainants 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. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. It is found that, by letter dated March 31, 2017, the complainants made a request to the respondent selectman for copies of the Town of East Windsor's 2012 real property revaluation records pertaining to two specific parcels of land in East Windsor, which are owned by the complainants, and over which the complainants are in disputes with the town regarding property assessments.
3. It is found that, by letter dated April 5, 2017, the respondents acknowledged the request described in paragraph 2, above, and informed the complainants that they would search for any responsive records. It is also found that, by letter dated April 10, 2017, the respondents further informed the complainants that the only records which the town maintains that are responsive to the request described in paragraph 2, above, are the field cards for the parcels, which the respondents had already previously provided to the complainants.
4. By letter dated and filed April 17, 2017, the complainants appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide them with copies of the records described in paragraph 2, above.
5. Section 1-200(5), G.S., defines "public records or files" as:

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.

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

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

8. The Commission takes administrative notice of the final decisions in Docket # FIC 2017-0151; John Barney and Marek Kement v. Tax Assessor, Town of East Windsor; and Town of East Windsor (January 10, 2018), and Docket #FIC 2017-0279; John Barney and Marek Kement v. Chairman, Board of Assessment Appeals, Town of East Windsor; Board of Assessment Appeals, Town of East Windsor; and Town of East Windsor (February 28, 2018). In each matter the complainants requested records from, first, the East Windsor Tax Assessor and, second, the East Windsor Board of Assessment Appeals, related to the same property parcels at issue herein. The Commission dismissed each complaint, concluding in Docket #FIC 2017-0151 that the respondents therein did not maintain any responsive records, and concluding in Docket #FIC 2017-0279, that all responsive records were provided to the complainants.

9. At the hearing in this matter, the complainants contended that the respondents should maintain other records, basing such contention on the fact that in 2012, the revaluation company which worked for East Windsor also worked for another town, and that in such other town, such company created different types of revaluation records.

10. However, it is found that any and all records related to the revaluation of the parcels at issue are maintained in East Windsor's assessment appeal files, which records have already been provided to the complainants in the context of contested case Docket #FIC 2017-0279.

11. It is also found that the respondent First Selectman does not maintain any records described in paragraph 2, above. It is concluded that the respondent First Selectman is not responsible for providing the complainants with records maintained outside his office. See Lash v. Freedom of Information Commission, 116 Conn. App. 171, 187 (2009). (Greenwich

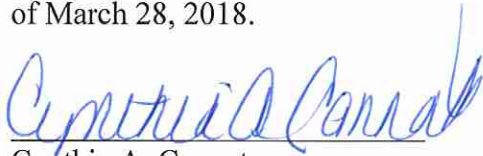
Selectman not responsible for disclosing public records in the custody of another town department).

12. It is concluded that the respondents did not violate the disclosure provisions of the FOI Act, 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.

Approved by Order of the Freedom of Information Commission at its regular meeting of March 28, 2018.



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:

JOHN T. BARNEY, P.O. Box 41, Tariffville, CT 06081; **AND MAREK L. KEMENT**, 41 Perri Lane, Broad Brook, CT 06016

FIRST SELECTMAN, TOWN OF EAST WINDSOR; AND TOWN OF EAST WINDSOR, 11 Rye Street, Broad Brook, CT 06016



Cynthia A. Cannata
Acting Clerk of the Commission