

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Ian Macmillan,

Complainant

against

Docket #FIC 2016-0159

Chairman, Harbor Commission,
Town of Greenwich; Harbor
Commission, Town of Greenwich;
and Town of Greenwich,

Respondents

October 26, 2016

On May 17, 2016, the respondents moved to dismiss the above-captioned matter for lack of jurisdiction. On May 26, 2016, this matter was heard as a contested case, at which time the complainant and the respondents appeared and presented testimony, exhibits, and argument on the motion to dismiss.

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 the respondent commission conducted a meeting on January 19, 2016, and further, that the complainant attended such meeting.
3. By email, dated and filed with the Commission on February 19, 2016, the complainant appealed to the Commission, specifically stating that he was registering "a complaint about the January 19, 2016 Greenwich Harbor Management Commission meeting." The complaint went on to list nine alleged "infractions to both FOIA and Roberts Rules" regarding the meeting.
4. It is concluded that the Freedom of Information Commission has no authority to enforce "Roberts Rules."
5. The respondents contend that the complaint in this matter is untimely, and that therefore the Commission lacks jurisdiction.

6. Section 1-206(b)(1), G.S., provides in relevant part:

Any person denied the right to inspect or copy records under section 1-210 or wrongfully denied the right to attend any meeting of a public agency or denied any other right conferred by the Freedom of Information Act may appeal therefrom to the Freedom of Information Commission, by filing a notice of appeal with said commission. A notice of appeal shall be filed not later than thirty days after such denial, except in the case of an unnoticed or secret meeting, in which case the appeal shall be filed not later than thirty days after the person filing the appeal receives notice in fact that such meeting was held....

7. Section 1-21j-15, Regulations of Connecticut State Agencies provides:

Computation of any period of time referred to in [the Commission's regulations] begins by first counting the day after the day on which the precipitating event occurs, and ends on the last day of the period so computed. The last day of the period is to be included unless it is a day on which the principal office of the commission is closed, in which event the period shall run until the end of the next following business day. If the period of time, including the intervening Saturdays, Sundays and legal holidays, is five (5) days or less, such Saturdays, Sundays and legal holidays shall be excluded from the computation; otherwise such days shall be included in the computation.

8. It is found that the period of time in the computation at issue is more than five days, and that therefore Saturdays, Sundays and legal holidays shall be included in the computation. It is found that the precipitating event, the meeting, occurred on January 19, 2016, and that therefore the computation begins on January 20, 2016, and ends 30 days later, on February 18, 2016, a date when the commission office was open.

9. It is specifically found that the complaint in this matter was dated and e-mailed on February 19, 2016, at 4:01 P.M. Accordingly, it is concluded that the complaint was filed beyond the thirty day limit established in §1-206(b)(1), G.S.

10. At the hearing in this matter, the complainant contended that, because the notice of the January 19, 2016 meeting was allegedly inaccurate, therefore the Commission should treat such meeting as a secret or unnoticed meeting under §1-206(b)(1), G.S.

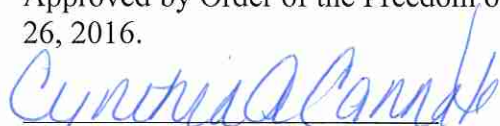
11. However, it is clear from the record that the January 19, 2016, meeting was neither secret nor unnoticed. Moreover, since the complainant personally attended such meeting, he had notice in fact of the meeting on January 19, 2016. Thus, even if the Commission accepted the complainant's contention, described in paragraph 10, above, the computation of time would have been identical, under the particular facts and circumstances of this case.

12. It is concluded that the Commission lacks jurisdiction to address the allegations 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 dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of October 26, 2016.



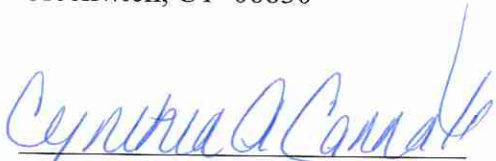
Cynthia A. Cannata
Acting Clerk of the Commission

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:

Ian Macmillan
P.O. Box 7662
Greenwich, CT 06836

Chairman, Harbor Commission, Town of Greenwich; Harbor
Commission, Town of Greenwich; and Town of Greenwich
c/o Aamina Ahmad, Esq.
Town Attorney's Office
101 Field Point Road
Greenwich, CT 06830



Cynthia A. Cannata
Acting Clerk of the Commission