

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Gregg and Jenn Haythorn,

Complainants

against

Docket #FIC 2021-0039

Chairman, Town of Weston;
Town Administrator, Town of
Weston; and Town of Weston,

Respondents

March 23, 2022

The above-captioned matter was heard as a contested case on September 21, 2021, at which time complainants and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. Due to the COVID-19 pandemic and the state's response to it, the hearing was conducted through the use of electronic equipment (remotely) pursuant to §149 of Public Act 21-2 (June Special Session).

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 email dated January 17, 2021, the complainants requested that the respondents provide them with copies of the following records:

... all Weston Town official, agent, and representative and Weston BoS¹ and BoF² members (among and between, from and to, both directly generated and cc or bcc) written and electronic records (emails, texts, and the like), communication from all Town-issued and personal accounts, worksheets, notes, and similar pertinent records between 10-1-20 and 1-17-21 pertaining to the planning, evaluation, discussion, deliberation, and decision regarding the 1-14-21 Weston BoF Chairman and Vice Chairman election. . . .

¹ "BoS" is an acronym for the Board of Selectmen.

² "BoF" is an acronym for the Board of Finance.

If no discussions, evaluation, planning, deliberation in any form occurred with or without [a] record, a simple confirmation by email will suffice. . . .

3. It is found that, by email dated January 20, 2021, the respondents acknowledged the complainants' request, provided the complainants with a responsive email chain, and indicated that they believed this disclosure satisfied the request.

4. By letter dated January 21, 2021, and filed January 26, 2021, the complainants appealed to this Commission, alleging that the respondents had violated the Freedom of Information ("FOI") Act by failing to provide them with all responsive records.

5. The complaint also alleged that the respondents engaged in an unnoticed meeting during which they discussed the appointment of the chairperson and the vice chairperson to the Board of Finance.

6. At the time of the request, §1-200(5), G.S., provided:

"[p]ublic 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, 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.³

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

[e]xcept 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 . . . (3) receive a copy of such records in accordance with section 1-212.

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

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

³ Section 147 of Public Act 21-2 (June Sp. Sess.) amended the definition of "public records or files" to also include data or information that is "videotaped."

10. In addition, §1-200(2), G.S., provides, in relevant part, that:

“[m]eeting” means any hearing or other proceeding of a public agency, any convening or assembly of a quorum of a multimember public agency, and any communication by or to a quorum of a multimember public agency, whether in person or by means of electronic equipment, to discuss or act upon a matter over which the public agency has supervision, control, jurisdiction or advisory power. . .

11. Section 1-225(a), G.S., further provides, in relevant part, that: “[t]he meetings of all public agencies . . . shall be open to the public. . .”

12. The complainants contended that the respondents should have more records responsive to the request set forth in paragraph 2, above. They further contended that the respondents must have engaged in an unnoticed meeting or meetings prior to a public meeting at which the chairperson and vice chairperson were appointed to the Board of Finance, as no discussion about the appointments occurred at the public meeting.

13. At the hearing, the respondents contended that they had disclosed all responsive records in their possession to the complainants. The respondents further contended that neither the respondents nor the Board of Finance engaged in unnoticed meetings concerning the appointments of the chairperson and the vice chairperson to the Board of Finance.

14. Jonathon Luiz, Town Administrator for the Town of Weston, and Steven Ezzes, the Chairman of the Board of Finance, appeared at the contested case hearing and testified on behalf of the respondents.

15. Regarding the request for records, it is found that, once Mr. Luiz received the complainants' request, he contacted the seven members of the Board of Finance, as well as the First Selectman and the Finance Director, reviewed the request with each individual and asked if any of them maintained responsive records. It is found that the Board of Finance members, the First Selectman, and the Finance Director understood that the request in this case was seeking hardcopy and electronic records. It is found that some individuals knew, without conducting a search, that they did not maintain any records responsive to the request and indicated as much to Mr. Luiz. It is found that other individuals searched the records that they maintained for responsive records.

16. It is found that the Finance Director had one responsive email chain and he provided this record to Mr. Luiz.

17. It is found that, by email dated January 20, 2021, Mr. Luiz provided the complainants with the Finance Director's responsive email chain.

18. It is found that the respondents do not maintain any other records responsive to the request in this case.

19. Accordingly, it is concluded that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S., as alleged in the complaint.

20. Regarding the alleged meeting violation, it is found that, pursuant to the Town of Weston's Charter, the Board of Finance is required to elect (or re-elect) the officers of the Board of Finance during the first meeting of each new year. It is found that the "officers" of the Board of Finance are the chairperson and the vice chairperson.

21. It is found that, on January 14, 2021, which was the first meeting of the new year, the Board of Finance convened a special meeting. It is found that the first item on the meeting agenda provided, as follows: "Discussion/decision regarding the appointment of Chairperson and Vice Chairperson of the Board of Finance."

22. It is found that, once the January 14th special meeting was convened, a motion was made to appoint the then current chairperson to another term as Chairperson of the Board of Finance. It is found that such motion was seconded and then adopted unanimously. It is found that, immediately following such vote, a motion was made to appoint the then current vice chairperson to another term as Vice Chairperson of the Board of Finance. It is found that such motion was seconded and then adopted unanimously. It is found that there was no discussion by the members of the Board of Finance concerning either appointee before the motions were taken up.

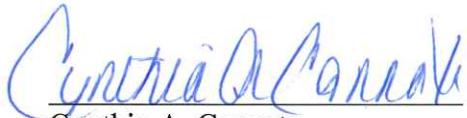
23. It is found that the respondents did not engage in unnoticed meetings to discuss the re-election of the chairperson or the vice chairperson of the Board of Finance prior to the the January 14th special meeting.

24. Accordingly, it is concluded that the respondents did not violate §1-225(a), G.S., 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 dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of March 23, 2022.



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:

GREGG AND JENN HAYTHORN, 6 Winthrop Hill, Weston, CT 06883

CHAIRMAN, TOWN OF WESTON; TOWN ADMINISTRATOR, TOWN OF WESTON; AND TOWN OF WESTON, c/o Attorney Ira W. Bloom, Berchem Moses P.C., 1221 Post Road East, Westport, CT 06880 and Attorney Nicholas R. Bamonte, Berchem Moses PC, 1221 Post Road East, Westport, CT 06880



Cynthia A. Cannata
Acting Clerk of the Commission