

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

David Lober,

Complainant

against

Docket # FIC 2022-0539

First Selectman, Town of Woodbridge;  
Board of Selectmen, Town of Woodbridge;  
Town Attorney, Town of Woodbridge; and  
Town of Woodbridge,<sup>1</sup>

Respondents

October 11, 2023

The above-captioned matter was heard as a contested case on August 28, 2023, at which time the complainant and the respondents appeared 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 the respondent Board of Selectmen (“Board”) conducted a regular meeting on November 9, 2022 (“November 9<sup>th</sup> meeting”).
3. It is found that the agenda for the November 9<sup>th</sup> meeting stated the Board’s intent to convene in executive session to discuss several topics, including: “pending litigation, Open Communities Trust, LLC et. al. Vs Town Plan and Zoning Commission of the Town of Woodbridge et. al.” “[p]ursuant to Section 1-200(6)(B) of the Connecticut General Statutes” (“the pending litigation”).
4. It is found that, during the November 9<sup>th</sup> meeting, the Board, the director of finance, and the town attorney entered into executive session to discuss the pending litigation. It is further found that the complainant is a member of the Board and was present for the executive session.
5. By letter of complaint filed November 21, 2022, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by

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<sup>1</sup> The case caption has been amended to properly reflect the Board of Selectmen as a respondent.

engaging in discussions during the executive session that extended beyond the limited scope of the pending litigation.

6. Section 1-225(a), G.S., provides, in relevant part, that: “[t]he meetings of all public agencies, except executive sessions, as defined in subdivision (6) of section 1-200, shall be open to the public.”

7. Section 1-200(6)(B), G.S., provides that:

“[e]xecutive sessions” means a meeting of a public agency at which the public is excluded for one or more of the following purposes: (B) strategy and negotiations with respect to pending claims or pending litigation to which the public agency or a member thereof, because of the member’s conduct as a member of such agency, is a party until such litigation or claim has been finally adjudicated or otherwise settled . . . .

8. It is found that the pending litigation, referenced on the Board’s meeting agenda, as described in paragraph 3 above, involves allegations that the town’s zoning regulations violate fair housing laws.

9. It is found that the town drafted an affordable housing plan, outlining ten possible locations for the construction of affordable housing, including the Country Club property (“the property”). It is further found that the property is specifically referenced in legal documents associated with the pending litigation.

10. At the hearing, the complainant argued that the Board improperly discussed the property during executive session on the pending litigation.

11. In response, the town attorney acknowledged that the property was discussed during the executive session. However, he also testified that such discussion related to strategy regarding the pending litigation.

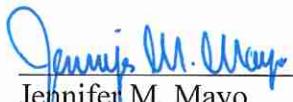
12. It is found that the Board’s discussion in executive session constituted strategy with respect to pending litigation within the meaning of §1-200(6)(B), G.S., and that it did not exceed the scope of permissible discussion in executive session.

13. Accordingly, it is concluded that the respondents did not violate the FOI Act with respect to the allegation described in paragraph 5, above.

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 October 11, 2023.

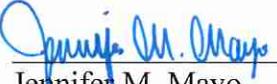
  
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Jennifer M. Mayo  
Acting Clerk of the Commission

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:

**DAVID LOBER**, 35 Wepawaug Road, Woodbridge, CT 06525

**FIRST SELECTMAN, TOWN OF WOODBRIDGE; TOWN ATTORNEY, TOWN OF WOODBRIDGE; AND TOWN OF WOODBRIDGE**, 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

  
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Jennifer M. Mayo  
Acting Clerk of the Commission