

July 24, 1986

Docket #FIC 84-19

C.J. Mozzochi v. Town Manager of  
the Town of Glastonbury

Docket # FIC 84-51

C.J. Mozzochi v. Town Manager of  
the Town of Glastonbury

Pursuant to Section 2(b) of P.A. 86-408, the above-captioned  
matters have been withdrawn.

FREEDOM OF INFORMATION COMMISSION

Catherine I. Hostetter

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Acting Clerk of the Commission

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by  
C. J. Mozzochi,

FINAL DECISION

Complainant

Docket #FIC84-19

against

September 12, 1984

Town Manager of the Town of  
Glastonbury.

Respondent

The above captioned matter was heard as a contested case on May 24, 1984 at which time the complainant and the respondent appeared and presented testimony, exhibits and argument on the complaint. Heard in conjunction with the above matter was FIC84-51, C. J. Mozzochi v. Town Manager of the Town of Glastonbury.

After consideration of the entire record the following facts are found:

1. The respondent is a public agency within the meaning of §1-18a(a), G.S.
2. By letter dated December 24, 1983 the complainant posed several questions to the respondent relating to repairs and renovations on the old town hall and the Academy School.
3. By letter dated January 12, 1984 the respondent responded to the questions posed by the complainant.
4. By letter dated January 28, 1984 the complainant made a request of the respondent for any and all correspondence and minutes relating in any way to the appropriation of funds for the following:

- a. The original contract for the renovation at 2108 and 2155 Main Street.
- b. The 32 change orders in the contract for renovations.
- c. The contract for the replacement of the air conditioning at 2108 Main Street; and
- d. The contract for the antenna system and related items in connection with the renovation at 2108 Main Street.

5. Also by letter dated January 28, 1984 the complainant made a request of the respondent for the latest version of the town charter and any and all additional documentation describing the legal operation of the general fund and the reserve fund.

6. By letter of complaint filed with the Commission on February 6, 1984 the complainant requested hearings on the above requests.

7. At hearing the hearing officer revealed that she was a former resident of Glastonbury, and asked if that fact concerned either of the parties. Both parties indicated that it was not a matter of concern.

8. By letter dated May 24, 1984 the complainant directed a letter to the executive director of the Commission indicating that had he known before the hearing that the hearing officer had once lived in Glastonbury he would have asked her to disqualify herself from the hearing. The complainant asked that he be granted a new hearing by a commissioner who had never lived in Glastonbury.

9. By letter dated May 25, 1984 the complainant, claiming that the hearing officer was prejudiced against him, withdrew the above complaint as well as the complaint in FIC 84-51.

10. By letter dated May 26, 1984 the complainant withdrew his request for a new hearing in FIC 84-19 and 84-51.

11. The respondent requested at hearing that the Commission impose a civil penalty against the complainant pursuant to §1-21i(b), G.S. on the ground that the complainant's appeal had been taken frivolously, without reasonable grounds and solely for the purpose of harassing the respondent.

12. Although the complainant does not choose to pursue his complaint against the respondent, the Commission retains jurisdiction pursuant to §1-21i(b), G.S. To determine the merits of the respondent's request for the imposition of a civil penalty against the complainant.

13. The following facts are pertinent to the respondent's claim with respect to the imposition of a civil penalty:

a) By letter dated February 7, 1984 the respondent indicated to the complainant that the collection of correspondence and minutes in any way related to the appropriation of funds for the items listed would take "considerable time and research," but that as soon as the material was available it would be forwarded to the complainant.

b) By letter dated March 16, 1984 the director of administrative services of the town of Glastonbury forwarded to the complainant minutes of the board of finance and of the town council regarding the complainant's January 28, 1984 request. The director advised the complainant that the 32 change orders did not require council or finance board action.

c) By two letters dated March 17, 1984 the complainant indicated to the respondent that the respondent had not complied with the complainant's January 28, 1984 request for records, that the amount of time taken to send what was sent was "clearly an unreasonable length of time." and that the director of administrative services had failed to fully respond to the complainant's January 28, 1984 letter.

d) At hearing the complainant claimed that the respondent had failed to respond fully to his requests for information.

e) The respondent claims that it is willing to respond to any specific requests for records, but that it is unable to comply with the "broad, blanket requests" submitted by the complainant.

14. The complainant claims, in response to the respondent's request for a civil penalty, that he filed this appeal with the Commission on the advice of his attorney.

15. The Commission finds that the respondent's responses to the complainant's requests were made in good faith and represent the respondent's best efforts to comply with the requests. The complainant was unable to point to a single instance in which the respondent refused, upon specific demand, to provide copies of public records. The Commission notes that the respondent, in addition to producing requested records, produced written responses to inquiries or statements by the complainant which were not required by the Freedom of Information Act.

16. The Commission also finds that the absence of a basis for the complainant's complaint as well as the nature of correspondence directed to the respondent indicate that the complainant's appeal was taken frivolously, without reasonable grounds and solely for the purpose of harassing the respondent.

17. It is found that the complainant's withdrawal of the complaint does not affect the respondent's request for the imposition of a civil penalty pursuant to §1-21i(b), G.S.

18. It is also found that the complainant's representation that he acted upon the advice of an attorney does not preclude the imposition of a civil penalty pursuant to §1-21i(b), G.S.

The following order by the Commission is hereby recommended on the basis of the record concerning the above captioned complaint:

1. Pursuant to §1-21i(b), G.S., the complainant, C. J. Mozzochi, is hereby ordered to appear before the designated Hearing Officer in the above matter on in the Freedom of Information Hearing Room, 30 Trinity Street, Hartford, Conn. for the purpose of showing cause why a civil penalty ought not to be imposed.

Approved by order of the Freedom of Information Commission at its regular meeting of September 12, 1984.

  
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Mary Jo Jolicœur  
Clerk of the Commission