

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Richard Groski,

Complainant

against

Docket #FIC 2016-0828

Chairman, Brookfield Housing Authority;
and Brookfield Housing Authority,

Respondents

June 28, 2017

The above-captioned matter was heard as a contested case on March 29, 2017, at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint. The case caption has been amended to correctly identify the name of the respondent housing authority. For purposes of hearing, this matter was consolidated with Docket #FIC 2016-0889, Richard Groski v. Chairman, Brookfield Housing Authority; and Brookfield Housing Authority.

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. By email dated and filed November 25, 2016, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by convening in executive session for an improper purpose during the November 15, 2016 regular meeting of the respondent housing authority (“housing authority”).
3. It is found that the housing authority held a regular meeting on November 15, 2016 (“meeting”), and that its members convened in executive session during the meeting. At the hearing in this matter, the respondents argued that the discussion in executive session was permitted under §§1-200(6)(E) and 1-210(b)(24), G.S.
4. Section 1-225(a), G.S., provides, in relevant part:

[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....
5. Section 1-200(6), G.S., provides, in relevant part:

'Executive sessions' means a meeting of a public agency at which the public is excluded for one or more of the following purposes: ... (E) discussion of any matter which would result in the disclosure of public records or the information contained therein described in subsection (b) of section 1-210.

6. Section 1-210(b)(24), G.S., provides that disclosure of is not required of:

[r]esponses to any request for proposals or bid solicitation issued by a public agency or any record or file made by a public agency in connection with the contract award process, until such contract is executed or negotiations for the award of such contract have ended, whichever occurs earlier, provided the chief executive officer of such public agency certifies that the public interest in the disclosure of such responses, record or file is outweighed by the public interest in the confidentiality of such responses, record or file. (Emphasis added).

7. It is found that, at some time prior to the meeting, the housing authority began a search for a new property management company. It is found that, although the housing authority did not issue a formal request for proposal, it solicited and received bids from several candidates. It is found that the chairman of the housing authority determined that the only "serious" bid came from DeMarco Property Management.

8. It is found that the agenda for the meeting stated: "Executive Session – DeMarco Management Proposal for BHA," and that, during the executive session, the members discussed the terms of DeMarco's proposal.

9. The chairman of the housing authority testified that, at the time of the executive session, negotiations for the award of the management contract were ongoing.

10. It is found, however, that the respondents offered no evidence that the chairman of the housing authority, who is its "chief executive officer," certified that the public interest in the disclosure of the DeMarco proposal was outweighed by the public interest in the confidentiality of that proposal.

11. Accordingly, it is concluded that the respondents failed to prove that the DeMarco proposal was exempt from disclosure pursuant to §1-210(b)(24), G.S. It is further concluded that the respondents thus failed to prove that there was a proper basis for the executive session pursuant to §1-200(6)(E), G.S.

12. Based upon the foregoing, it is concluded that the respondents violated §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. Henceforth, the respondents shall strictly comply with §1-225(a), G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of June 28, 2017.



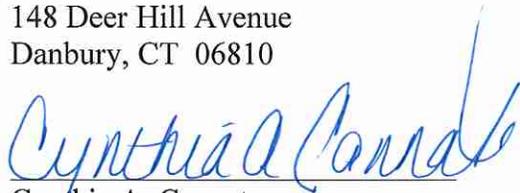
Cynthia A. Cannata
Acting Clerk of the Commission

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:

Richard Groski
9 Mayflower Drive
Brookfield, CT 06804

Chairman, Brookfield Housing Authority; and
Brookfield Housing Authority
c/o Thomas W. Beecher, Esq.
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Danbury, CT 06810



Cynthia A. Cannata
Acting Clerk of the Commission