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FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
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Ian Macmillan,

Complainant(s)

against

Notice of Meeting

Docket #FIC 2016-0159

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

Respondent(s)

September 30, 2016

Transmittal of Proposed Final Decision

In accordance with Section 4-179 of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision prepared by the hearing officer in the above-captioned matter.

This will notify you that the Commission will consider this matter for disposition at its meeting which will be held in the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, 1st floor, Hartford, Connecticut, at **2 p.m. on Wednesday, October 26, 2016**. At that time and place you will be allowed to offer oral argument concerning this proposed finding and order. Oral argument shall be limited to ten (10) minutes. For good cause shown, however, the Commission may increase the period of time for argument. A request for additional time must be made in writing and should be filed with the Commission **ON OR BEFORE October 14, 2016**. Such request **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, and (2) include a notation indicating such notice to all parties or their representatives.**

Although a brief or memorandum of law is not required, if you decide to submit such a document, an **original and fourteen (14) copies** must be filed **ON OR BEFORE October 14, 2016**. **PLEASE NOTE: Any correspondence, brief or memorandum directed to the Commissioners by any party or representative of any party MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, (2) include a notation indicating such notice to all parties or their representatives and (3) be limited to argument. NO NEW EVIDENCE MAY BE SUBMITTED.**

If you have already filed a brief or memorandum with the hearing officer and wish to have that document distributed to each member of the Commission, it is requested that **fifteen (15) copies** be filed **ON OR BEFORE October 14, 2016**, and that **notice be given to all parties or if the parties are represented, to their representatives, that such previously filed document is being submitted to the Commissioners for review.**

By Order of the Freedom of
Information Commission

W. Paradis

Acting Clerk of the Commission

Notice to: Ian Macmillan
Attorney Aamina Ahmad

FIC# 2016-0159/Trans/wrbp/MES//TAH/2016-09-30

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Ian Macmillan,

Complainant

against

Docket #FIC 2016-0159

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

Respondents

July 18, 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, that 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.



Mary E. Schwind
as Hearing Officer

FIC2016-0159/HOR/mes/07182016