



# FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 165 Capitol Avenue, Suite 1100 • Hartford, CT 06106  
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Jacqueline Thomas  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2025-0357

Blue Hills Civic Association  
Respondent(s)

April 24, 2026

## 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.

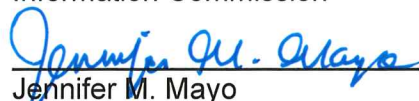
This will notify you that the Commission will consider this matter for disposition at its meeting which will be held **in person** at the Freedom of Information Commission's Hearing Room, Conference Room H, located on the ground floor at 165 Capitol Avenue, Hartford, Connecticut, at **2:00 p.m. on Wednesday, May 13, 2026.**

At that time and place, you will be allowed to offer oral argument concerning this proposed finding and order in person. 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 May 8, 2026.** 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 May 8, 2026.** **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 May 8, 2026** 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



Jennifer M. Mayo  
Acting Clerk of the Commission

Notice to: Jacqueline Thomas  
Attorney Lauren A. Gambardella

FIC# 2025-0357/IIRA/CZH/RB/JMM/2026-04-24

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Jacqueline Rabe Thomas,

Complainant

against

Docket #FIC 2025-0357

Blue Hills Civic Association,

Respondents

April 24, 2026

The above-captioned matter was heard as a contested case on January 13, 2026 and March 24, 2026, at which times the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. The case caption has been amended, without objection, to accurately reflect the complainant in this matter.

After the contested case hearings on this matter, by order of the hearing officer, the following after-filed exhibits have been admitted into evidence, over the objection of the respondents, and marked as follows: Complainant's Exhibit P (after-filed): Photograph of one page of a memorandum from the Commissioner of the Department of Economic and Community Development to the Secretary of the Office of Policy and Management and the Chief of Staff to the Office of the Governor, dated April 10, 2025 (printed in "landscape mode"); and Complainant's Exhibit Q (after-filed): Photograph of one page of a memorandum from the Commissioner of the Department of Economic and Community Development to the Secretary of the Office of Policy and Management and the Chief of Staff to the Office of the Governor, dated April 10, 2025 (printed in "portrait mode").<sup>1</sup>

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. It is found that, by email dated May 6, 2025, the complainant made the following request for copies of records:

- (a) "[i]n April 2, 2025 notification of cyber fraud from the Blue Hills Civic Association [(“BHCA”)] to the Connecticut Office of the Attorney General [(“OAG”)], it notes that the BHCA ‘was responsible for distributing a significant portion of the Legislative Grant Award to subgrantees.’”

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<sup>1</sup> The Commission notes that Complainant's Exhibit P (after-filed) and Complainant's Exhibit Q (after-filed) are copies of the same document. The hearing officer marked Complainant's Exhibit Q (after-filed) as a full exhibit due to the respondents' objection to Complainant's Exhibit P (after-filed).

- (i) “Please provide any contracts, memorandums of understanding and/or award notifications with those subgrantees, list of those subgrantees, and payment records to those subgrantees.”
  - (ii) “Any records flagging problems with payments made and/or missing to these subgrantees; including the Dec. 2 communication from My People Community Services [(“My People”)] to Tom Sussman, BHCA Chief Financial Officer notifying they never received the funds and any response provided to My People, the Dec. 4 emails from Sussman to BHCA’s Clark and Noriega about the fraud and next steps and any responses sent[.]”
- (b) “In a timeline of the theft submitted to [the Connecticut Department of Economic and Community Development (“DECD”)] sometime on or after April 8 by the attorney for the [BHCA], it states ‘September 2024 Senator McCrory & Vicki Gallon-Clark identified subgrantees; award notification and amounts provided to subgrantees[.]’”
- (i) “Please provide any records in your agency’s possession surrounding these decisions and/or awards.”
  - (ii) “Please provide the email from the attorney for [BHCA] to DECD that provided this attached timeline[.]”
- (c) “In the April 2, 2025 notification of cyber fraud from [BHCA] to the [OAG], it notes that ‘BHCA wired My People \$300,000.00 of the Legislative Grant Awards (the “Funds”). The Funds were distributed to My People in two transactions: (1) \$291,000.00 was wired on October 7, 2024; and (2) \$9,000.00 was wired on October 10, 2024.’”
- (i) “Please provide copies of these transactions and/or any records of BHCA communicating with external sources to organize these transactions.”
  - (ii) “Please provide any records flagging problems with payments made and/or missing to any subgrantee, including My People Clinical Services and [My People].”
- (d) “DECD sent three notices to BHCA, first on March 28 and 10:49 a.m. informing them the state was pausing all further disbursements of grants, then after meeting with the chief financial officer that day sent another email at 3:49 p.m. ordering BHCA to immediately stop spending any funds provided by the state in the nonprofits [sic] possession. Then, on April 4, ordering the nonprofit to immediately return all unspent funds provided by the state.”
- (i) “Please provide any records surrounding these requests from staff at [BHCA].”

- (e) “A copy of BHCA’s Accounting Policies and Procedure Manual that was in effect last July, and any updated policies and procedures.”
- (f) “Any financial audits of BHCA over the last 3 years.”
- (g) The court order to review all COASTAL Community Bank’s [(“COASTAL”)] records associated with theft from [BHCA.]”
- (h) “The 3/13/25 email from Hartford Police Detective Kimberly Borkoski to BHCA’s Vicki Clark sharing results of court order related to [COASTAL’s] records associated to [sic] the source of the fraudulent email.”
- (i) “Any recordings/minutes/agendas of the BHCA’s board’s March 19 meeting[.]”
- (j) “All transcripts, audio, and/or reports following CLG interviews of witnesses for workplace investigation into decision-making surrounding Wire Fraud.”
- (k) “All communication with Sen. McCrory since Jan. 1, 2024[.]”
- (l) “Any records surrounding the \$300,000 intercepted by a third-party through fraudulent wire transfer documents.”
- (m) “The internal investigation completed by Crumbie Law Firm[.]”

(Emphasis in original.) It is found that the complainant also requested that her records request be expedited and that any fees be waived “given the public interest in [BHCA] abruptly terminating most of its staff.”

2. It is found that, by email dated May 8, 2025, the respondents denied the complainant’s records request and contended that the BHCA “is not subject to the Connecticut Freedom of Information [(“FOI”)] Act because it does not fall within those entities subject to the Connecticut [FOI] Act pursuant to Section 1-200 of the Act.”

3. By letter of complaint, dated and filed May 15, 2025, the complainant appealed to this Commission, alleging that the respondents violated the FOI Act by failing to provide the records described in paragraph 1, above.

4. Section 1-200(1), G.S., provides:

“Public agency” or “agency” means: (A) Any executive, administrative or legislative office of the state or any political subdivision of the state and any state or town agency, any department, institution, bureau, board, commission, authority or official of the state or of any city, town, borough, municipal corporation, school district, regional district or other district or other political subdivision of the state, including any committee of,

or created by, any such office, subdivision, agency, department, institution, bureau, board, commission, authority or official, and also includes any judicial office, official, or body or committee thereof but only with respect to its or their administrative functions, and for purposes of this subparagraph, “judicial office” includes, but is not limited to, the Division of Public Defender Services; (B) Any person to the extent such person is deemed to be the functional equivalent of a public agency pursuant to law; or (C) Any “implementing agency”, as defined in section 32-222.

5. At the hearing on this matter, and in their post-hearing brief, the respondents claimed that the BHCA is not a public agency within the meaning of §1-200, G.S., and therefore is not required to comply with the FOI Act.

6. It is found that the BHCA is a non-profit, tax-exempt, non-stock corporation that provides community-based services to the Blue Hills neighborhood in the City of Hartford (“Hartford”). It is also found that the BHCA is governed by a board of directors (“Board”), which at the time of the contested case hearings on this matter, consisted of three private individuals and one government official, State Representative Joshua Hall. It is further found that Representative Hall has no independent authority to direct or control actions of the BHCA.

7. It is found that the BHCA is not a “public agency” within the meaning of §1-200(1)(A), G.S., nor an “implementing agency” within the meaning of §1-200(1)(C), G.S. It is therefore found that the sole issue before the Commission is whether the BHCA is the “functional equivalent of a public agency,” within the meaning of §1-200(1)(B), G.S.

8. In Board of Trustees of Woodstock Academy v. FOI Comm’n, 181 Conn. 544, 554 (1980) (“Woodstock”), the Supreme Court, relying on federal court decisions interpreting the federal FOI Act, adopted the following four-factor test to determine whether an entity is the “functional equivalent” of a public agency: (1) whether the entity performs a governmental function; (2) the level of government funding; (3) the extent of government involvement or regulation; and (4) whether the entity was created by government. “All relevant factors are to be considered cumulatively, with no single factor being essential or conclusive.” Connecticut Humane Society v. FOI Comm’n, 281 Conn. 757, 761 (1991) (“Humane Society”). “As the courts have made clear, the functional equivalence test was not intended to expand the scope of the [FOI] Act, but to ensure that nominally private entities do not avoid the obligations of the [A]ct if they effectively take the place of a public agency.” Desmond v. FOI Comm’n, 2019 WL 3526451, at \*5 (Conn. Super. July 1, 2019). See also Woodstock, 181 Conn. at 555-56 (the functional equivalent test “ensure[s] that the general rule of disclosure underlying this state’s [FOI Act] is not undermined by nominal appellations which obscure functional realities,” while “also ensur[ing] that a truly private entity would not be subject to disclosures which were unintended by our [FOI Act].”).

### **Whether the BHCA Performs a Governmental Function**

9. In determining whether the activities performed by an entity constitute a governmental function, courts have looked to whether the function at issue is one traditionally performed by government, such as “fire prevention, police protection, sanitation, public health, and parks and recreation,” or one that “has evolved into a governmental function.” Domestic Violence Services of Greater New Haven, Inc. v. FOI Comm’n, 47 Conn. App. 466, 474 (1998) (“Domestic Violence Services”). In prior cases in which courts have found that an entity performed a “governmental function” for purposes of the Woodstock test, the function at issue was one that the government was required to perform pursuant to statutory or constitutional mandate. See Woodstock, 181 Conn. at 547 (private school serving as only free high school for town residents performed governmental function because state statute and the state constitution mandate free public education); Humane Society, 218 Conn. at 764 (entity engaged in governmental function where it was authorized by statute to engage in law enforcement activities); Envirotest Systems Corp. v. FOI Comm’n, 59 Conn. App. 753, 758-59 (2000) (“Envirotest”) (automobile emissions testing was governmental function because statute required state to establish emissions inspection program); Domestic Violence Services, 47 Conn. App. at 474 (prevention and treatment of domestic violence was governmental function because statute required provision of such services); Greenwich Emergency Medical Services, Inc. v. FOI Comm’n, 2019 WL 3248554, at \*6-7 (Conn. Super. June 18, 2019) (“GEMS”) (emergency medical services was governmental function because municipalities required by statute to provide emergency medical services and entity was approved as town’s only provider of such services).

10. Moreover, even if the activities performed by a private entity constitute a governmental function, courts have held that the first prong of the Woodstock test is not satisfied if the entity is “[p]erforming a government service pursuant to contract,” does not “have the power to govern or to regulate or to make decisions [affecting the government],” or if “the government is [not] really involved in the core of the program.” Domestic Violence Services, 47 Conn. App. at 475 (provision of services to domestic violence victims was governmental function, but first prong not satisfied because entity “[had] no power to govern, to regulate or to make decisions affecting government [and] provides advocacy services to the victims of domestic violence pursuant only to its contractual obligation”). See also Envirotest, 59 Conn. App. at 758-59 (emissions testing was governmental function, but first prong not satisfied because entity provided services pursuant to contract); GEMS, 2019 WL 3248554, at \*7 (emergency medical services was governmental function, but first prong not satisfied because entity provided services pursuant to contract and “[did] not have the power to govern or to make decisions that bind the town”).

11. In the present case, the complainant provided neither evidence nor argument that the BHCA performs a governmental function.

12. It is found that the BHCA has historically provided youth services, such as summer employment services, education programs at the local high school and advocacy around gun violence, as well as certain elderly support services in the North End of Hartford. It is also found

that the BHCA provides advocacy services for residents of the Blue Hills community in Hartford, as states in its amended Certificate of Incorporation:

[t]he corporation is organized exclusively for charitable and educational purposes in furtherance of the common welfare of the people of the Blue Hills neighborhood in the City of Hartford through promoting community action on neighborhood problems and concerns, combating community deterioration and juvenile delinquency, lessening neighborhood tensions, advancing education, eliminating prejudice and discrimination, seeking community improvements and securing human rights established by law. The corporation is hereby constituted as a non-profit corporation ...<sup>2</sup>

13. It is found that the BHCA also received public funds through legislative grants from DECD, which it was then required to disburse to subgrantee organizations in the North End of Hartford. It is also found that the BHCA would submit an application to the state, and if such application was approved, the BHCA would receive legislative grant funds. It is further found that, in August of 2024, the BHCA received a legislative grant of \$5.5 million and was required to send \$4.4 million of those funds to various subgrantees (“passthrough grant”).<sup>3</sup>

14. It is found that neither the community-based services nor the stated purpose of the BHCA, as described in paragraph 12, above, are statutorily or constitutionally required. It is also found that, even if managing and disbursing a passthrough grant to subgrantees, as described in paragraph 13, above, were considered a governmental function, the BHCA only received and disbursed such grant funding pursuant to a contract with DECD.<sup>4</sup>

15. Moreover, it is found that BHCA does not have the power to govern or make decisions that bind state or local government. It is also found that the BHCA is governed by a Board, as noted in paragraph 6, above, and that the Board, through the Executive Director and her staff, had sole responsibility for making decisions regarding the programs and services offered by the BHCA.<sup>5</sup> It is further found that, although allegations exist that State Senator Douglas McRory, who has never served on the Board, was involved in certain decisions regarding the passthrough grant and potential subgrantees, any such involvement was not officially authorized by, or specifically known to, the Board.<sup>6</sup>

16. Based upon the foregoing, it is found that the BHCA does not perform a “governmental function”, and therefore, the first prong of the Woodstock test weighs against finding that the BHCA is the functional equivalent of a public agency.

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<sup>2</sup> See Respondents’ Exhibit 3: Amendment to the respondents’ original Certificate of Incorporation, dated October 30, 1968.

<sup>3</sup> The Commission notes that wire fraud allegations related to this passthrough grant of \$5.5 million are the catalyst for both the complainant’s records request and an ongoing criminal fraud investigation into the BHCA.

<sup>4</sup> See Complainant’s Exhibit L: Contract between the BHCA and DECD for the legislative grant funds.

<sup>5</sup> The Commission notes that at the time of the contested case hearings on this matter, the most recent permanent executive director’s employment had been terminated, along with the majority of the BHCA’s employees.

<sup>6</sup> See paragraphs 27 through 28, below.

### **Level of Government Funding**

17. With respect to the level of government funding, courts have distinguished between funding received as consideration for services provided pursuant to a contract, wherein “the amount of money received by the [entity] reflects the amount of business that is done pursuant to the contract,” and “an allotment of government funds” in the form of a direct appropriation from the government. Envirotest, 59 Conn. App. at 759. The second prong of the Woodstock test is not met where the “payment made to the [entity] was consideration for the services it provided pursuant to a contract.” Id. at 760.

18. In GEMS, the court upheld the Commission’s finding that the funding provided to an emergency medical services provider was an “allotment of government funds,” rather than a “fee for service,” despite the existence of a contract between the municipality and the service provider. In that case, the contract did not specify a fee for the services provided but instead required the service provider to submit an annual budget request to the municipality, which would review such request and appropriate funds during its annual budget process in the form of a fixed annual payment. GEMS, 2019 WL 3248554 at \*9. The court concluded that such process “closely resembles the process by which a town department obtains budgetary funding,” and therefore constituted an “allotment of government funds.” Id.

19. President of the Board, Dr. Kaydian Reid, testified, and it is found, that pursuant to a contract with DECD, the BHCA received \$1.1 million of the \$5.5 million passthrough grant, as payment for administering such passthrough grant. It is therefore found that the \$1.1 million payment was closer to a fee for service, rather than an allotment of government funds, as described by the Court in GEMS. It is also found, however, that the remaining \$4.4 million of the passthrough grant were given to the BHCA to act as fiduciary and disburse such funds to subgrantees, as described in paragraph 13, above, also pursuant to the contract with DECD. It is therefore found that, even with the existence of a contract, the \$4.4 million is not consideration for services provided but instead is closer to an “allotment of government funds.” Envirotest, 59 Conn. App. at 759.

20. It is found that the amount of funding that the BHCA receives from government sources is substantial, both in absolute terms and as a percentage of its annual revenues. It is found that the passthrough grant represented a substantial portion of the BHCA’s recent funding. It is also found that, in 2025, the state provided \$6.8 million in funding to the BHCA and that approximately seventy percent of the BHCA’s funding came from government sources. See Woodstock, 181 Conn. at 547 (government funding prong met where school received 95.32% of operating expenses from towns); GEMS, 2019 WL 3248554 at \*7 (government funding prong met where town provided approximately \$4.5 million, constituting 62% of entity’s operating budget); Docket #FIC 2020-0098, Sandor v. New Canaan Library, Inc., ¶¶25-28 (March 23, 2022) (government funding prong met where library received 65-75% of its funding from the town).

21. Moreover, it is found that once the BHCA lost access to state funding, which was frozen and ordered returned to the state as a result of a federal criminal fraud investigation into

the BHCA, the organization was no longer able to properly function and laid off the majority of its staff. It is also found that, during the January 16, 2026 contested case hearing, Dr. Reid characterized the BHCA as being “basically shuttered”. It is further found that, in Complainant’s Exhibit P (after-filed) and Complainant’s Exhibit Q (after-filed), by memorandum dated April 10, 2025, the Commissioner of DECD wrote that the BHCA’s legal counsel had indicated “that should BHCA comply with DECD’s prior instruction to freeze funds and return them to the state, that [would] result in BHCA laying off all staff. It was further indicated that ‘a majority’ of staff ha[d] already been laid off, given that BHCA [was] operating nearly entirely on state funds.”

22. Based on the foregoing, it is found that the second prong of the Woodstock test has been met and weighs in favor of finding that the BHCA is the functional equivalent of a public agency.

### **Extent of Government Involvement or Regulation**

23. The third prong of the Woodstock test requires examination of the level of government involvement or regulation. Courts have held that in order to satisfy the government regulation prong, the entity “must operate under direct, pervasive or continuous regulatory control.” Hallas v. FOI Commission, 18 Conn. App. 291, 296 (1989), overruled on other grounds by Humane Society, 218 Conn. 757. “Also critical in the determination of whether an entity is a governmental agency is the amount of control the government exercises over the entity’s detailed physical performance.” Envirotest, 59 Conn. App. at 761. “[T]he regulation prong of the test does not pertain to the general regulation of a profession but rather, applies to specific government regulation of the function of the agency.” Hallas, 18 Conn. App. at 295.

24. Decisions since Woodstock have made clear that the regulation prong is satisfied only if “the government ... control[s] the day-to-day activity of the [entity’s] business.” Envirotest, 59 Conn. App. at 762. In GEMS, for example, the court affirmed the Commission’s finding that the government exercised substantial regulatory control over an emergency medical services provider based on an “extensive statutory and regulatory scheme” and detailed contractual requirements that constituted “comprehensive regulation of the core of [the provider’s] activities, the provision of emergency medical services.” GEMS, 2019 WL 3248554 at \*12. Such regulation included detailed licensing and certification requirements, regular inspections to ensure compliance with safety standards, and even control over such granular details of the provider’s operations as “response times, the location and staffing of ambulances, the availability of backup ambulances, the requirement of independent medical supervision, and the type of communications systems to be used.” Id. at \*11.

25. The complainant contended that the third Woodstock factor weighs in favor of finding that the BHCA is the functional equivalent of a public agency because (a) the criminal fraud investigation being conducted by the United States Department of Justice (“DOJ”) “establishes” direct control over the BHCA and (b) the alleged level of involvement by State Senator McRory in the BHCA’s handling of the passthrough grant, including making determinations regarding which subgrantees should receive funds and the amount of funding such subgrantees should receive.

26. It is found that a criminal investigation by the DOJ does not constitute the kind of “direct, pervasive or continuous regulatory control” that is required under the third Woodstock factor. It is found that the DOJ is investigating potential criminal activity, which may result in the prosecution of individuals; such investigation is not “specific government regulation of the function of the agency.” Hallas, 18 Conn. App. at 295.

27. It is similarly found that the alleged involvement of State Senator McRory in the decision-making and disbursement of the passthrough grant funds does not constitute government control over the day-to-day activities of the BHCA. It is found that State Senator McRory does not serve on the Board and no evidence was submitted that he had any official role in the BHCA or DECD. It is found that, even if it is true that the Executive Director relied on State Senator McRory to choose subgrantees and funding amounts for the passthrough grant, there is no evidence that State Senator McRory was necessarily exercising government control over the Executive Director’s decisions. It is also found that there is no evidence that State Senator McRory was involved in any of the day-to-day operations of the BHCA or its core activities, other than his alleged involvement in the passthrough grant.

28. It is found that Dr. Reid testified she had no knowledge of how subgrantees for the passthrough grant were chosen and no communications with State Senator McRory regarding such subgrantees. It is also found, based on the facts and circumstances of this case, that the State Senator’s potential involvement in decisions made by an Executive Director, which are also unknown to the governing Board of the BHCA, does not constitute “direct, pervasive, or regulatory control” over the BHCA, as contemplated in Woodstock.

29. Moreover, it is found that the state hired an outside firm, CliftonLarsonAllen LLP (“CLA”), to conduct a forensic audit of the BHCA (“forensic audit”).<sup>7</sup> It is also found that, in DECD’s statement releasing the details and findings of such forensic audit, DECD asserted that “[t]he audit details material operational and managerial shortcomings at BHCA, including poor or missing recordkeeping, deficiencies in sub-recipient due diligence and monitoring, a lack of transparency and communication to the board of directors, limited board oversight, and weak financial reporting practices.”<sup>8</sup>

30. It is found that DECD is the state agency that assumed responsibility for administering the passthrough grant to the BHCA, after such grant was mandated by the legislature. It is also found that the forensic audit details a lack of “direct, pervasive or continuous regulatory control by” DECD. As described in the findings of CLA’s forensic audit report:

neither DECD’s policies nor the CT [O]ffice of Policy and Management Guide require real-time monitoring of subrecipient activity or detailed verification of expenditures beyond the information presented in required reports. As a result, under its current policy framework, the irregularities identified at BHCA

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<sup>7</sup> See paragraph 30, below.

<sup>8</sup> See DECD Press Release, “Governor Lamont and the Department of Economic and Community Development Release Forensic Audit of Blue Hills Civic Association” (January 20, 2026).

would not have been detected earlier and, in some cases, may never have been identified outside of an external review such as the one performed by CLA.

Complainant's Exhibit M: Emilie Deveraux, CliftonLarsonAllen LLP, Connecticut Department of Economic and Community Development: Forensic Audit of Blue Hills Civic Association, 53 (2026) ("CLA Audit Report"). It is found that the CLA Audit Report goes on to conclude that DECD did not audit the BHCA or the subgrantees of the passthrough grant or review financial and programmatic reports submitted by the BHCA. It is further found that the CLA Audit Report concludes that "under DECD's existing policies and procedures, this level of monitoring was not triggered or performed ... meaning that the irregularities related to BHCA's reporting and use of funds ... were not identified through DECD's standard oversight processes." CLA Audit Report, 54.

31. It is therefore found that the very reason for the DOJ's criminal fraud investigation and the complainant's related records request, illustrates a lack of "direct, pervasive or continuous regulatory control" by the overseeing government agency. Hallas, 18 Conn. App. at 296.

32. Based on the foregoing, it is found that the third prong of the Woodstock test has not been met and weighs against finding that the BHCA is the functional equivalent of a public agency.

### **Whether the BHCA was Created by Government**

33. It is found that the BHCA was not created by government or state charter. It is found, rather, as noted in paragraph 6, above, that the BHCA was incorporated in 1963 by private individuals.<sup>9</sup>

34. It is therefore found that the fourth prong of the Woodstock test has not been met and weighs against finding that the BHCA is the functional equivalent of a public agency.

35. In summary, it is found, based upon the evidence in the record, that only one of the four prongs of the Woodstock test (the government funding prong) has been met and weighs in favor of finding that the BHCA is the functional equivalent of a public agency. Considering all of the prongs cumulatively, as required by the Supreme Court in Woodstock, it is concluded, based upon all of the foregoing, that the BHCA is not the "functional equivalent of a public agency," within the meaning of §1-200(1)(B), G.S.

36. Accordingly, it is concluded that the respondents did not violate the FOI Act, when they failed to comply with the complainant's request, as alleged by the complainant.

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

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<sup>9</sup> See Respondents' Exhibit 2: Respondents' Certificate of Incorporation, dated February 21, 1963.

1. The complaint is dismissed.

  
\_\_\_\_\_  
C. Zack Hyde  
as Hearing Officer

FIC2025-0357/HOR/CZH/04242026