

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

William Effros,

Complainant

against

Docket # FIC 2020-0246

Chairman, Planning and Zoning
Commission, Town of Greenwich;
Planning and Zoning Commission,
Town of Greenwich; and
Town of Greenwich,

Respondents

October 13, 2021

The above-captioned matter was heard as a contested case on May 14, 2021, and July 15, 2021, at which times the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint. Due to the COVID-19 pandemic and the state's response to it, the hearing on May 14th was conducted telephonically, and the continued hearing on July 15th was conducted remotely.¹ For hearing purposes, this matter was consolidated with Docket #FIC 2020-0352, Bill Effros v. Chairman, Planning and Zoning Commission, Town of Greenwich; Planning and Zoning Commission, Town of Greenwich; and Town of Greenwich.

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, by email dated May 26, 2020, the complainant requested from the respondents a copy of the final site plan for the building of a stadium at 10 Hillside Road, "in PDF format."
3. It is found that, by email dated May 27, 2020, at 11:23 a.m., the respondents provided the complainant with a link to some of the documents (in PDF format) comprising the final site plan, and then at 1:32 p.m., that same day, provided the complainant with a link to all documents (in PDF format) comprising the final site plan.

¹ On March 14, 2020, the Governor issued Executive Order 7B, which suspended the requirement to conduct public meetings in person. Pursuant to §149 of Public Act 21-2 (June Sp. Sess.), effective July 1, 2021, public meetings may be conducted remotely.

4. By letter of complaint filed June 4, 2020,² the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act G.S., by denying his request for “electronic access to the site plan documents.”³

5. At the time of the request, §1-200(5), G.S., provided:

“[p]ublic records or files” means any recorded data or information relating to the conduct of the public’s business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.⁴

6. Section 1-210(a), G.S., provides in relevant part that:

[e]xcept as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to (1) inspect such records promptly during regular office or business hours or . . . (3) receive a copy of such records in accordance with section 1-212. Any agency rule or regulation, or part thereof, that conflicts with the provisions of this subsection or diminishes or curtails in any way the rights granted by the subsection shall be void.

7. Section 1-212(a), G.S., provides in relevant part that “[a]ny person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

8. It is found that the requested records are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

² On March 25, 2020, the Governor issued Executive Order 7M, thereby suspending the provisions of Conn. Gen. Stat. S1-206(b)(1), which requires the Freedom of Information Commission to hear and decide an appeal within one year after the filing of such appeal. Executive Order 7M is applicable to any appeal pending with the Commission on the issuance date and to any appeal filed on or after such date, for the duration of the current public health and civil preparedness emergency. Consequently, the Commission retains jurisdiction over this matter.

³ Although the complainant also alleged in his complaint that the respondents violated certain other rights he has as an adjoining property owner, at the continued hearing in this matter held on July 15, 2021, he informed the hearing officer that he only wished to pursue the allegation set forth in paragraph 4, above.

⁴ Section 147 of Public Act 21-2 (June Sp. Sess.) amended the definition of “public records or files” to also include data or information that is “videotaped”.

9. At the hearing in this matter, the complainant did not contest that he had received all the site plan documents in PDF format from the respondents. Rather, the complainant contended that he requested a copy of "a CD" containing the documents comprising the final site plan, which documents he believed would be different from the documents that were provided to him, and argued that the respondents were improperly withholding a copy of the CD from him.

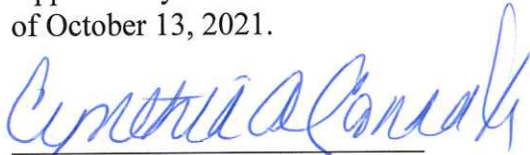
10. It is found, however, that the request, described in paragraph 2, above, was not a request for a copy of a CD. Moreover, the respondents' witness testified credibly, and it is found, that the respondent commission never received a CD containing the site plan documents, but rather, the site plan documents were received by the respondents in PDF format as attachments to an email from the developer. It is found that the respondents provided to the complainant an exact copy of the electronic version, in PDF format, of all the site plan documents that they received from the developer.

11. Accordingly, it is concluded that the respondents did not violate the FOI Act 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:

1. The complaint is dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of October 13, 2021.



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:

WILLIAM EFFROS, 41 Old Church Road, Greenwich, CT 06830

**CHAIRMAN, PLANNING AND ZONING COMMISSION, TOWN OF GREENWICH;
PLANNING AND ZONING COMMISSION, TOWN OF GREENWICH; AND TOWN OF
GREENWICH**, c/o Attorney Abby Wadler, Greenwich Town Attorneys Office, 101 Field Point
Road, Greenwich, CT 06830



Cynthia A. Cannata
Acting Clerk of the Commission