

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Aram Ayalon,

Complainant

against

Docket # FIC 2020-0380

Mayor, City of New Britain; and City of
New Britain,

Respondents

January 26, 2022

The above-captioned matter was heard as a contested case on August 17, 2021, at which time the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint. Due to the COVID-19 pandemic and the state's response to it, the hearing was conducted through the use of electronic equipment (remotely) pursuant to §149 of Public Act 21-2 (June Special Session).

On September 10, 2021, the respondents filed a post-hearing brief with the Commission. The complainant did not file a brief.

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 complaint filed August 13, 2020,¹ the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act. Specifically, the complainant alleged that he and other members of the respondents' Common Council were excluded from participating during a July 8, 2020 meeting of the Common Council when they could not be heard or cast a vote.
3. At the hearing and in their post-hearing brief, the respondents contended that the complainant did not allege a violation of the FOI Act and that the respondents did not deny the

¹ On March 25, 2020, the Governor issued Executive Order 7M, thereby suspending the provisions of Conn. Gen. Stat. Sec. 1-206(b)(1), which requires the Freedom of Information Commission to hear and decide an appeal within one year after the filing of such an 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, through June 30, 2021. Consequently, the Commission retains jurisdiction.

complainant any right conferred under the FOI Act. Moreover, the respondents contended that no member of the Common Council was intentionally precluded from participating and casting a vote. Instead, the respondents contended that the respondents encountered an unanticipated technological issue which they believed had been resolved during the meeting.

4. Section 1-206(b)(1), G.S., provides, in relevant part:

[a]ny 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 . . . may appeal therefrom to the [FOI] 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

5. It is found that, at the time of the complaint and hearing in this matter, the complainant was a member of the Common Council of the City of New Britain. It is found that, on July 8, 2020, a regular meeting of the Common Council convened. It is found that several members of the Common Council attended in person, while others, including the complainant, elected to join the meeting by telephone due to the COVID-19 pandemic.

6. It is found that, during the meeting, the complainant and other members of the Common Council who attended by phone attempted to participate and cast votes on various agenda items; however, the members of the Common Council attending by phone could not be heard. It is further found that, although information technology ("IT") staff present at the meeting attempted to resolve the issue, it was not resolved during the meeting.

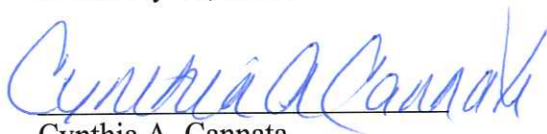
7. The crux of the complaint is that the complainant alleged he was *denied the right to participate* in the meeting of the Common Council *in his capacity as a member of the Common Council*. However, the FOI Act guarantees *the right of the public to attend* the meetings of public agencies. The Commission does not have jurisdiction to enforce the personal rights of members of the Common Council.

8. It is concluded that the complaint, which is the subject of the instant appeal, presents a claim beyond the Commission's jurisdiction.

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

1. The complaint is hereby dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of January 26, 2022.



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:

ARAM AYALON, 194 Stratford Road, New Britain, CT

MAYOR, CITY OF NEW BRITAIN; AND CITY OF NEW BRITAIN, c/o Attorney Joseph E. Skelly, Jr., Corporation Counsel, City of New Britain, 27 West Main Street, New Britain, CT 06051



Cynthia A. Cannata
Acting Clerk of the Commission