

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Thomas Brown Sr.,

Complainant

against

Docket # FIC 2021-0497

Chairman, Danbury City Council;
Danbury City Council; and City of
Danbury,

Respondents

June 22, 2022

The above-captioned matter was heard as a contested case on February 7, 2022, 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 February 14, 2022, the respondents submitted an after-filed exhibit, which has been marked, without objection, as Respondents' Exhibit 3: Letters, dated February 9, 2022, from the Respondents to the Hearing Officer and Complainant, with enclosure (video recording of August 3, 2021 City Council meeting).

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 received on August 27, 2021, the complainant appealed to this Commission, alleging that the respondent Danbury City Council violated the Freedom of Information ("FOI") Act at an August 3, 2021 meeting of the City Council. The complainant alleged that the respondents failed to provide "a microphone" at and "audio amplification" from two lecterns located in Council Chambers and that he "could hear only part of what was being offered [by various City department heads] from the other end [of Council Chambers] as part of the official deliberations". As a remedy, the complainant requested that the Commission direct the respondents to commit to providing audio amplification at the two lecterns.
3. Section 1-225(a) provides, in relevant part, that "[t]he meetings of all public agencies...shall be open to the public."

4. At the hearing, the complainant contended that the respondents violated the FOI Act by failing to provide adequate audio amplification at the two lecterns where members of the public and City department heads addressed the respondents at the August 3rd meeting, without the use of microphones. The complainant testified that he had difficulties hearing the comments of two members of the public who spoke during the public speaking portion of the August 3rd meeting,¹ as well as department heads who spoke at such meeting. The complainant also testified that another member of the public had similar difficulties hearing. The complainant testified that he could hear the Council members and the Mayor of the City of Danbury who spoke at the August 3rd meeting and who were using microphones.

5. It is found that the August 3rd meeting was the first in-person City Council meeting since the peak of the COVID-19 pandemic. It is also found that in preparation for returning to in-person meetings, the respondents consulted with the City of Danbury's Health Director and other department heads regarding COVID-19 mitigation protocols. It is found that the Health Director recommended that the respondents not allow the use of microphones by the public and department heads at the two lecterns in the Council Chambers, in order to reduce the risk of transmission of COVID-19. It is found that the respondents followed such recommendation to not allow the use of microphones at the lecterns during the August 3rd meeting.

6. It is found that the respondents provided members of the public with the opportunity to speak during the public speaking portion of the August 3rd meeting. It is found that the complainant was the first to approach one of the lecterns to speak. It is found that the respondents informed the complainant that they were not using the microphones at the lecterns and requested that the complainant speak louder. It is found that the complainant decided not to speak and returned to his seat.

7. It is found that the members of the public who spoke during the August 3rd meeting used the lectern nearest to the complainant. It is found that the department heads used a lectern located on the opposite side from where the complainant was sitting. It is found that those members of the public and department heads who spoke wore masks.

8. It is found that no member of the public, including the complainant, informed the respondents during the August 3rd meeting that they were having difficulty hearing what was being said by the two members of the public and the department heads who spoke at such meeting. It is found that the complainant first voiced his concerns regarding the foregoing to a Council member immediately after the August 3rd meeting. It is found that on August 4, 8 and 17, 2021, the complainant emailed another Council member, the Public Relations Specialist in the Mayor's Office, the Mayor and Corporation Counsel, respectively, regarding such concerns. It is found that, after receiving the complainant's email, the Mayor contacted the Health Director regarding the complainant's concerns.

9. It is found that prior to their next meeting in September 2021, the City purchased

¹ The Commission notes that the complainant did not allege in his complaint that he had difficulties hearing the comments of the two members of the public who spoke during the public speaking portion of the August 3rd meeting.

disposable microphone covers that could be used at the two lecterns in the Council Chambers. It is found that the microphones (with microphone covers) at such lecterns have been in place since such meeting.

10. Under the facts and circumstances of this case, it is concluded that the respondents did not violate §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. The complaint is hereby dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of June 22, 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:

THOMAS BROWN SR., 10 Valerie Lane, Danbury, CT 06810

CHAIRMAN, DANBURY CITY COUNCIL; DANBURY CITY COUNCIL; AND CITY OF DANBURY, c/o Attorney Dianne Rosemark, City of Danbury, Office of Corporation Counsel, 155 Deer Hill Avenue, Danbury, CT 06810



Cynthia A. Cannata
Acting Clerk of the Commission