

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Bob Sirkin,

Complainant

against

Docket #FIC 2021-0659

Security Commissioner, Point-O-Woods
Association Board of Governors; and
Point-O-Woods Association Board of
Governors,

Respondents

October 26, 2022

The above-captioned matter was heard as a contested case on April 21, 2022, and June 20, 2022. On April 21, 2022, the complainant did not appear to prosecute the case. However, shortly thereafter, the complainant informed the Commission that he had experienced technical difficulties joining the hearing. Therefore, a second hearing on this matter was scheduled. On June 21, 2022, both 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 hearings were conducted through the use of electronic equipment (remotely) pursuant to §149 of Public Act 21-2 (June Spec. Sess.), as amended by §1 of Public Act 22-3.

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 dated November 18, 2021, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by conducting an illegal executive session.
3. Section 1-225(a), G.S., provides, in relevant part, that:

[t]he meetings of all public agencies, except executive sessions, as defined in subdivision (6) of section 1-200, shall be open to the public. . . .
4. Section 1-200(6), G.S., provides that:

"[e]xecutive sessions" means a meeting of a public agency at which the public is excluded for one or more of the

following purposes: (A) Discussion concerning the appointment, employment, performance, evaluation, health or dismissal of a public officer or employee, provided that such individual may require that discussion be held at an open meeting; (B) strategy and negotiations with respect to pending claims or pending litigation to which the public agency or a member thereof, because of the member's conduct as a member of such agency, is a party until such litigation or claim has been finally adjudicated or otherwise settled; (C) matters concerning security strategy or the deployment of security personnel, or devices affecting public security; (D) discussion of the selection of a site or the lease, sale or purchase of real estate by the state or a political subdivision of the state when publicity regarding such site, lease, sale, purchase or construction would adversely impact the price of such site, lease, sale, purchase or construction until such time as all of the property has been acquired or all proceedings or transactions concerning same have been terminated or abandoned; and (E) discussion of any matter which would result in the disclosure of public records or the information contained therein described in subsection (b) of section 1-210. (Emphasis supplied).

5. With regard to the allegations described in paragraph 2, above, it is found that, on November 16, 2021, the respondent board held a regular meeting. It is found that one of the action items on the November 16th agenda was a discussion about "Security Strategy/Deployment of Security Personnel." It is further found that the agenda indicated that the respondent board planned to discuss the security matters in executive session. Specifically, the agenda stated as follows:

The executive session will discuss security problems, issues, and statistics from the summer of 2021, as well as the suggested augmented security protocols for the off-season in 2022 and the summer season of 2022. During the executive session, there will be a review of the recommended protocols from the security consultants in order to deal with particular issues.

6. It is found that the respondent board convened the November 16th meeting in public, discussed many action items in public, and then moved the meeting into executive session to discuss the security matters.

7. The complainant contends that, because he and many other residents were concerned about the security matters, about their personal safety, and about how the board would address such matters, the respondents should not have conducted their discussion in executive session.

8. However, it is found that discussion of security related matters, including those items contained in the respondent board's November 16th agenda, is expressly permitted pursuant to §1-200(6)(C), G.S.

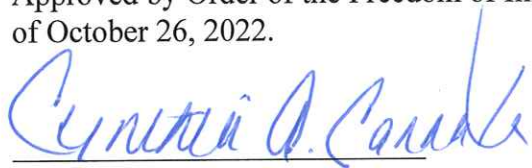
9. It is concluded that the respondents did not violate the FOI Act by discussing security related matters in executive session.

10. It is further concluded that the respondents did not violate the FOI Act, 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 dismissed.
2. Although the Commission found no violation in this case, the Commission sympathizes with the residents' concerns referenced in paragraph 7 of the findings, above, and encourages the respondents to be as transparent as they are able regarding the security measures enacted and put in force.

Approved by Order of the Freedom of Information Commission at its regular meeting of October 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:

BOB SIRKIN, PO Box 136, South Lyme, CT 06376

SECURITY COMMISSIONER, POINT-O-WOODS ASSOCIATION BOARD OF GOVERNORS; AND POINT-O-WOODS ASSOCIATION BOARD OF GOVERNORS,
c/o Attorney Jeffrey T. Londregan, Conway, Londregan, Sheehan & Monaco, PC, 38
Huntington Street, New London, CT 06320 and Brian K. Estep, Esq., Conway, Londregan,
Sheehan & Monaco, P.C, 38 Huntington Street, P.O. Box 1351, New London, CT 06320



Cynthia A. Cannata
Acting Clerk of the Commission