

STATE OF CONNECTICUT
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by

FINAL DECISION

Leya Edison; Luann Zbiden; and Lynnette
Miller,

Complainants

against

Docket # FIC 2021-0511

First Selectman, Town of Goshen; and
Town of Goshen,

Respondents

August 9, 2023

The above-captioned matter was heard as a contested case on May 10, 2022, at which time the complainants, Leya Edison and Luann Zbiden, and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint. The remaining complainant, Lynnette Miller, did not appear.¹ 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).

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 and letter dated and emailed April 9, 2021, the complainants requested that the First Selectman, the respondents' Zoning Enforcement Officer, and the Chairman of the Planning and Zoning Commission, provide them with the following records:

[A]ll information regarding monies given to the Town of Goshen and the Goshen Housing Trust in the last 4 years. Please include applications, plans, maps, documents, and other information given or received in regard to the above mentioned funds. This information must incorporate the committees/commissions involved in these projects: Economic Development Commission, Affordable Housing Committee, and P&Z Commission". Please incorporate plans, projects and technical research (including monies used for studies, surveys, maps and other information given to the State or any other organization or entity regarding this subject. Please include information on the formation of newly

¹ By email dated May 10, 2022, Ms. Miller notified the Commission that she "wished to withdraw" as a complainant in this matter.

formed, non-elected commissions – EDC and Affordable Housing Committee (names, dates of appointments, how positions were advertised, etc.).

Would you please include documentation of all monies awarded, received and disbursed in regard to the above.

[D]ocuments, meeting dates and other pertinent information, where additions/changes to P&Z Statutes occurred.

3. It is found that, by email dated April 12, 2021, then First Selectman Bob Valentine, acknowledged the complainants' request, stating: "we will work to get you the information that is available as our schedules allow."

4. By complaint filed April 19, 2021, the complainants appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by denying their request.

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

"[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.²

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 . . . (3) receive a copy of such records in accordance with section 1-212.

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 records described in paragraph 2, above, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

² The Commission notes that §1-200(5), G.S., was subsequently amended to include the term "videotaped." See June Sp. Sess. Public Act 21-2, §147.

9. At the hearing, the complainants contended that the respondents did not provide them with all records responsive to their request. The respondents disputed this contention.

10. It is found that, between the date of the request and the hearing in this matter, the complainants narrowed the scope of their request. However, the complainants did not provide the Commission with a copy of their narrowed request as part of this contested case.³

11. It is found that, on or about May 2021, the respondents provided responsive records to the complainants.

12. It is further found that the respondents thereafter prepared an additional package of responsive records for the complainants, and that such records were available for pick up since October 2021, but that the complainants never retrieved the records.⁴ At the hearing, the complainants denied knowledge of the fact that additional responsive records were made available, but nevertheless indicated that they would pick up such records following the hearing in this matter.

13. It is found that the complainants have not communicated with the Commission about the status of compliance with their request, or any other matter since the date of the hearing in this matter.

14. Based on the facts and circumstances of this case, specifically, that the precise nature and scope of the request at issue herein cannot be ascertained, and because the respondents made responsive records available to the complainants, which the complainants did not pick up, it is concluded that the respondents did not deny the complainants' request for records. It is further concluded, therefore, that the respondents did not violate the disclosure provisions of §§ 1-210(a) and 1-212(a), G.S.

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 August 9, 2023.



Cynthia A. Cannata
Acting Clerk of the Commission

³ The Commission notes that the hearing officer directed the complainants to file a copy of the narrowed request with the Commission as an after-filed exhibit. However, the complainants failed to do so following the hearing.

⁴ The Commission notes that Mr. Valentine's term as first selectman ended on or about November 11, 2021. Prior to the end of his term, Mr. Valentine communicated with Selectman Mark Harris, who appeared at the hearing, about the status of the complainant's pending request. Mr. Valentine informed Selectman Harris that additional responsive records were available to the complainants, but that the complainants did not pick them up.

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:

LEYA EDISON, 130 East Hyerdale Drive, Goshen, CT 06756; **LUANN ZBIDEN**, 180 Hageman Shean Drive, Goshen, CT 06756; **AND LYNNETTE MILLER**, c/o 180 Hageman Shean Road, Goshen, CT 06756

FIRST SELECTMAN, TOWN OF GOSHEN; AND TOWN OF GOSHEN, 42A North Street, Goshen, CT 06756



Cynthia A. Cannata
Acting Clerk of the Commission