

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Maryanne Hornish,

Complainant

against

Docket #FIC 2024-0616

First Selectman, Board of Selectmen,
Town of Suffield; Board of Selectmen,
Town of Suffield; and Town of Suffield,

Respondents

September 25, 2025

The above-captioned matter was heard as a contested case on March 4, 2025, at which time the complainant appeared and presented testimony, exhibits and argument on the complaint. The respondents also appeared but only presented argument on the complaint.

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 letter of complaint received and filed on October 15, 2024, the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to adequately describe the purpose for entering executive session during an October 9, 2024, regular meeting.
3. It is found that on October 9, 2024, the respondents held a regular meeting of the Board of Selectmen. It is further found that the agenda for such meeting indicated that the respondent Board of Selectmen, would enter executive session for a “General Update with Town Attorney on all pending litigation.”
4. 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.” Pursuant to §1-200(6)(B), G.S., the public may be excluded from an executive session held for “strategy and negotiations with respect to pending claims or pending litigation to which the public agency or 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.”

5. Section 1-225(c), G.S., requires that “[t]he agenda of the regular meetings of every public agency . . . shall be available to the public and shall be filed not less than twenty-four hours before the meetings to which they refer. . . .”

6. It is well established that a meeting agenda must “fairly apprise the public of the action proposed,” and of the “matters to be taken up at the meeting in order to [permit the public] to properly prepare and be present to express their views.” See Zoning Board of Appeals of the Town of Plainfield v. Freedom of Info. Comm’n, Docket No. CV 99-047917-S, 2000 WL 765186 (superior court, judicial district of New Britain, May 3, 2000), reversed on other grounds, Zoning Board of Appeals of the Town of Plainfield v. Freedom of Info. Comm’n, 66 Conn. App. 279 (2001).

7. The Commission has repeatedly held that in order for the public to be fairly apprised of the reason for an executive session, the public agency must give some indication of the specific topic to be addressed. Descriptions such as “legal strategy” or “pending litigation” are inadequate. See, e.g., Docket #FIC 2020-0109, Zandri v. Chairman, Town Council, Town of Prospect, et al. (February 22, 2021) (agenda item “Executive Session pending litigation and related strategies” fail[ed] to fairly apprise the public); Docket #FIC 2014-417, Lowthert v. Bill Brennen, First Selectman, Town of Wilton, et al. (June 5, 2015) (agenda item “Executive session: Litigation; Employee contract” failed to fairly apprise the public); Docket #FIC 2021-0502, Kate King and the Stamford Advocate v. Water Pollution Control Authority, City of Stamford, et al. (May 8, 2013) (“legal strategy” failed to identify with sufficient particularity the reason for respondents’ executive session); Docket #FIC 2011-471, George Schober v. Janet Tyler, Superintendent, Lebanon Public Schools, et al. (July 13, 2012) (“Update from legal counsel” listed under executive session failed to fairly and sufficiently apprise the public of the business to be transacted); Docket #FIC 2009-333 Dostaler v. Water Development Task Force, Town of East Hampton, (March 24, 2010) (“pending litigation” failed to adequately apprise the public of business to be transacted); Docket #FIC 2008-236, Preston D. Schultz and the Citizens for Prudent Spending v. Board of Education, Woodstock Public Schools (February 25, 2009) (agenda item “discussion of attorney/client privilege [sic] documents and pending litigation” did not fairly apprise the public); and Docket #FIC 88-165, Robert Cox v. Ridgefield Board of Education, (January 25, 1989) (the agenda item listing executive session to “receive advice from legal counsel on a legal matter” was insufficient).

8. More recently, the Commission found the respondents to be in violation of §1-225, G.S., for listing “Executive Session – Litigation” as an agenda item for a June 5, 2024 regular meeting of the respondent Board of Selectmen. The Commission takes administrative notice of that decision. See, Docket #FIC 2024-0388, Neil Hornish v. Colin Moll, First Selectman, Board of Selectmen, Town of Suffield, et al. (June 25, 2025). In that matter, the Commission found that “given the breadth of the instructive body of case law and numerous precedent Final Decisions of the Commission . . . the respondents’ position that the notice for the agenda items at issue was “appropriate” was not reasonable[,]” and assessed a \$250 civil penalty against the respondents.

9. It is found that, as in Docket #FIC 2024-0388, the respondents description of the executive session for the October 9, 2024 meeting (i.e., the meeting in this case) is similarly deficient. Specifically, it is found that an agenda item “General Update with Town Attorney on all pending litigation” does not fairly apprise the public of what would be discussed at the

meeting and does not permit the public to properly prepare and be present to express their views. This is especially true given the fact that the Town does not make publicly available a list or other record of all pending litigation involving the Town.

10. It is concluded, therefore, that the respondents violated the notice provisions of §1-225(c), G.S., as alleged in the complaint.

11. The complainant, for the first time at the March 4, 2025 hearing, and again in her post-hearing brief, requested that the Commission assess a civil penalty against the respondents for violating §1-225(c), G.S. The complainant did not present sufficient evidence that would warrant a consideration of a civil penalty in this matter. In fact, Complainant's Exhibit B¹, demonstrates that the respondents have a pattern of providing more detailed descriptions of executive sessions on meeting agendas.

12. Although the Commission declines to consider the imposition of a civil penalty in this matter, it is found that the respondents' violation of §1-225(c), G.S., is of a similar nature to that in Docket #FIC 2024-0388, as outlined in paragraph 8, above. The respondents are cautioned that future violations of a similar nature may result in the assessment of further civil penalties and other appropriate relief, as ordered by the Commission.

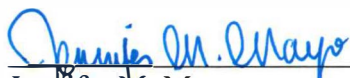
The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. Within fourteen days of the notice of final decision in this matter, the respondents shall provide to the complainant, and make publicly available, a list of all matters discussed during the executive session convened at the October 9, 2024, Board of Selectmen meeting. Such list shall provide sufficient detail to apprise the public of what matters were discussed during the executive session, including but not limited to, the names of the parties to the pending litigation as well as a brief description of the subject matter of the claim or claims at issue therein.

2. In complying with paragraph 1 of this order, above, the respondents shall: (i) publish such list in the same manner as its meeting agendas and minutes; and (ii) provide the complainant with a copy of such list directly.

3. Henceforth, the respondents shall strictly comply with the notice provisions of §1-225(c), G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of September 25, 2025.



Jennifer M. Mayo
Acting Clerk of the Commission

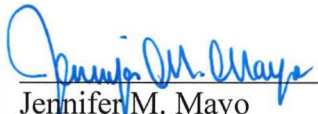
¹ Complainant's Exhibit B was originally marked for identification purposes only. After further consideration, Complainant's Exhibit B is marked as a full exhibit.

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:

MARYANNE HORNISH, 864 Thrall Avenue, Suffield, CT 06078

FIRST SELECTMAN, BOARD OF SELECTMEN, TOWN OF SUFFIELD; BOARD OF SELECTMEN, TOWN OF SUFFIELD; AND TOWN OF SUFFIELD, c/o Attorney Derek E. Donnelly, Blackburn & Donnelly, LLC, 2 Concorde Way, Suite 3C, P.O. Box 608, Windsor Locks, CT 06096



Jennifer M. Mayo
Acting Clerk of the Commission