



# FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106  
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Richard Saluga,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2014-144

Chairman, Board of Assessment Appeals, Town of  
Brookfield; Board of Assessment Appeals, Town of  
Brookfield; and Town of Brookfield,  
Respondent(s)

December 19, 2014

## Transmittal of Proposed Final Decision

In accordance with Section 4-179 of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision prepared by the hearing officer in the above-captioned matter.

This will notify you that the Commission will consider this matter for disposition at its meeting which will be held in the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, 1st floor, Hartford, Connecticut, at **2 p.m. on Wednesday, January 14, 2015**. At that time and place you will be allowed to offer oral argument concerning this proposed finding and order. Oral argument shall be limited to ten (10) minutes. For good cause shown, however, the Commission may increase the period of time for argument. A request for additional time must be made in writing and should be filed with the Commission **ON OR BEFORE January 2, 2015**. Such request **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, and (2) include a notation indicating such notice to all parties or their representatives.**

Although a brief or memorandum of law is not required, if you decide to submit such a document, an **original and fourteen (14) copies** must be filed **ON OR BEFORE January 2, 2015**. **PLEASE NOTE: Any correspondence, brief or memorandum directed to the Commissioners by any party or representative of any party MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, (2) include a notation indicating such notice to all parties or their representatives and (3) be limited to argument. NO NEW EVIDENCE MAY BE SUBMITTED.**

If you have already filed a brief or memorandum with the hearing officer and wish to have that document distributed to each member of the Commission, it is requested that **fourteen (14) copies** be filed **ON OR BEFORE January 2, 2015**, and that **notice be given to all parties or if the parties are represented, to their representatives, that such previously filed document is being submitted to the Commissioners for review.**

By Order of the Freedom of  
Information Commission

W. Paradis  
Acting Clerk of the Commission

Notice to: Richard Saluga  
Thomas W. Beecher, Esq.

2014-12-19/FIC# 2014-144/Trans/wrbp/MS/KKR/CAL

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Richard Saluga,

Complainant

against

Docket #FIC 2014-144

Chairman, Board of Assessment  
Appeals, Town of Brookfield;  
Board of Assessment Appeals,  
Town of Brookfield; and  
Town of Brookfield,

Respondents

November 19, 2014

The above-captioned matter was heard as a contested case on October 30, 2014, at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint. For purposes of hearing, this matter was consolidated with Docket #FIC 2014-236, Rich Saluga v. Chairman, Board of Assessment Appeals, Town of Brookfield; and Town of Brookfield.

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, undated, but filed March 12, 2014, the complainant appealed to this Commission, alleging that, in connection with the March 10 and 11, 2014 special meetings of the respondent Board of Assessment Appeals ("BAA"), the respondents violated the Freedom of Information ("FOI") Act in that:
  - (a) they required members of the public to sign in as a condition to attending such meetings;
  - (b) the members of the BAA sometimes spoke in low, inaudible tones during such meetings; referred to appellants by their first names or as "the lady with the cakes;" walked in and out of such meetings without calling for a break; and reviewed folders while other members of the BAA were speaking;
  - (c) the agendas for such meetings did not fairly apprise the public of the business to be transacted at such meetings; and

(d) the members of the BAA recorded only a portion of such meetings.

3. Section 1-225, G.S., provides in relevant part that:

(a)[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....

(d)[n]otice of each special meeting of every public agency...shall be posted not less than twenty-four hours before the meeting to which such notice refers....The notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings by such public agency.

(e)[n]o member of the public shall be required, as a condition to attendance at a meeting of [a public agency], to register the member's name, or furnish other information, or complete a questionnaire or otherwise fulfill any condition precedent to the member's attendance.

4. It is found that, on March 10 and 11, 2014, the BAA held special meetings (the "meetings") for the purpose of hearing tax assessment appeals and, during the March 11<sup>th</sup> meeting, also deliberating and taking action on such appeals.

5. With regard to the allegation described in paragraph 2(a), above, it is found that, during the meetings, a clerk from the tax assessor's office sat just outside the door to the room where the meetings were being held, and that the clerk had a sign-in sheet. It is found that each individual whose assessment appeal was scheduled to be heard at the meetings was assigned a specific time for his or her hearing.

6. The respondent chairman testified that members of the public were not required to sign in in order to attend the meetings, and that he never instructed the clerk to require members of the public to sign in. The chairman further testified that the sign-in sheet was a way for the clerk to keep track of whether the individuals whose assessment appeals were to be heard at a particular meeting, in fact appeared for their hearings, and the time that they arrived. It is found that the clerk used the sign-in sheet to inform the members of the BAA that a particular individual was present for his or her hearing at the time such hearing was scheduled and called by the chairman.

7. The complainant testified that he was not required to sign-in as a condition precedent to attending the meetings. It is found that the complainant did not observe or hear that the clerk actually required any member of the public to sign-in.

8. Based upon the foregoing, it is found that the respondents did not require members of the public to sign in as a condition to attending the meetings. See e.g., Peter Hood v. Chairman, Fairfield County Municipal Deer Management Alliance et al., Docket #FIC 2013-628 (July 9, 2013); Bradshaw Smith v. State of Connecticut, Connecticut Department of Transportation, Docket #FIC 2000-613 (February 28, 2001).

9. Accordingly it is concluded that the respondents did not violate the FOI Act as alleged in paragraph 2(a), above.

10. With regard to the allegation, described in paragraph 2(b), above, that the members of the BAA spoke in low, inaudible tones during the meetings, the Commission takes administrative notice of its decision in Docket #FIC 2013-221, Richard Saluga v. Chairman, Board of Board of Assessment Appeals, Town of Brookfield, (January 8, 2014), in which the Commission concluded that the members of the BAA intentionally lowered their voices during their deliberations, such that it effectively excluded the public from the meeting. However, in the present case, it is found that the members of the BAA did not speak in inaudible tones during the meetings, such that the public effectively was excluded from the meetings.

11. With regard to the remainder of the allegations, described in paragraph 2(b), above, it is found that such allegations, even if presumed to be true, do not constitute a violation of the FOI Act.

12. Accordingly, it is concluded that the respondents did not violate the FOI Act in the manner described in paragraph 2(b), above.

13. With regard to the allegation, described in paragraph 2(c), above, it is found that the agendas for each of the meetings stated as follows:

1. Call to Order
2. Property Hearings
3. Possible discussion on pending appeals
4. Adjournment

14. It is found that the minutes of the meetings specifically list the names of the property owners and the address of the properties that were the subject of the assessment appeal hearings on March 10 and 11, 2014.

15. Since the superior court's decision in Zoning Board of Appeals of the Town of Plainfield, et al. v. FOIC, et al., Superior Court, Docket No. 99-0497917-S, Judicial District of New Britain, Memorandum of Decision dated May 3, 2000 (Satter, J.), reversed on other grounds, 66 Conn. App. 279 (2001), this Commission has consistently held that a meeting agenda must be sufficiently specific to fairly apprise the public of the business to be transacted at such meeting. See, e.g., Denise Gallucci v. Chairman, Governing Board, Great Path Academy at Manchester Community College et al., Docket #FIC 2012-008 (September 27, 2012); George Schober v. Janet Tyler, Superintendent, Lebanon Public Schools, et al.,

Docket #FIC 2011-471 (July 13, 2012); Richard Stone et al. v. David Palmer, Chairman, Board of Education, Somers Public Schools, et al., Docket #FIC 2012-741 (September 14, 2011); David A. LeBlanc v. Elaine Adams, Chairman, Town Council, Town of Watertown, et al., Docket #FIC 2009-038 (December 16, 2009); Preston D. Schultz, et al. v. Board of Education, Woodstock Public Schools, Docket #FIC 2008-236 (February 25, 2009); Jay Kronfeld v. Board of Education, Regional School District #12, Docket #FIC 2007-249 (November 28, 2007); John Voket and the Newtown Bee v. Board of Education, Newtown Public Schools, Docket #FIC 2006-013 (October 11, 2006); Michael Doody v. Mayor, Town of North Branford, Docket #FIC 2005-490 (September 27, 2006); Jim Whitney et al. v. Planning Commission, Docket #FIC 2005-131 (October 11, 2005).

16. With regard to item 2 on each agenda, it is found that, under the facts and circumstances of this case, where hearings on specific appeals were scheduled, in advance, for specific days and times, the agendas for the meetings failed to fairly apprise the public of which “property hearings” were under consideration at such meetings.

17. With regard to agenda item number 3, the complainant claimed that “possible discussion on pending appeals,” is insufficient to apprise the public that the BAA would be *deliberating and taking action* on tax assessment appeals. It is found, however, that “possible discussion on pending appeals” fairly apprises the public that the BAA may be deliberating on the tax appeals pending before it. Moreover, it is found that the BAA does not schedule times and dates for its discussions/deliberations of *specific* pending appeals, and it is therefore found that the agendas fairly apprise the public that the BAA may discuss pending appeals.

18. Accordingly, it is concluded that the respondents violated the FOI Act as alleged in the complaint, as described in paragraphs 16 and 2(c), above.

19. With regard to the allegations, described in paragraph 2(d), above, it is found that such allegations, even if presumed to be true, do not constitute a violation of the FOI Act. Accordingly, the Commission shall not further consider such allegations.

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

1. Henceforth, the respondents shall strictly comply with the requirements of §1-225(d), G.S., including, at a minimum, listing on the agendas for each meeting of the BAA the addresses of the particular properties that will be considered at each such meeting.

  
Commissioner Matthew Streeter  
as Hearing Officer