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FREEDOM OF INFORMATION



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

Notice of Meeting

Docket #FIC 2014-444

Bruce Hampson, Chairman, Miller Driscoll Building
Committee, Town of Wilton; and Miller Driscoll Building
Committee, Town of Wilton,
Respondent(s)

May 13, 2015

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, June 10, 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 May 29, 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 May 29, 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 **fifteen (15) copies** be filed **ON OR BEFORE May 29, 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: Marissa Lowthert
Patricia C. Sullivan, Esq.

May 13, 2015/FIC# 2014-444/Trans/wrbp/MS/PSP/CAL

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Marissa Lowthert,

Complainant

against

Docket #FIC 2014-444

Bruce Hampson, Chairman,
Miller Driscoll Building Committee,
Town of Wilton; and Miller Driscoll
Building Committee, Town of Wilton

Respondents

May 13, 2015

The above-captioned matter was heard as a contested case on April 24, 2015, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

Pursuant to the order of the hearing officer at the April 24th hearing, the respondents filed an after-filed exhibit, which has been marked as follows:

Respondents' Exhibit 3: Affidavits Regarding Miller Driscoll Building Committee Minutes (with attachments).

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 the respondent Miller Driscoll Building Committee ("Building Committee") is a committee appointed by the Town of Wilton Board of Selectmen. It is found that the Building Committee was charged by the Board of Selectmen to make recommendations to the Board regarding conceptual designs and costs for the renovation of the Miller Driscoll School.
3. By email dated July 13, 2014, the complainant appealed to this Commission, alleging that, on February 11, 2014, the respondents violated the Freedom of Information ("FOI") Act by conducting committee business and voting by email, and without providing notice to the public. The complainant also requested the imposition of civil penalties, among other remedies.

4. Section 1-206(b)(1), G.S., provides in relevant part:

Any person denied the right to inspect or copy records under section 1-210 or wrongfully denied the right to attend any meeting of a public agency or denied any other right conferred by the Freedom of Information Act may appeal therefrom to the Freedom of Information Commission, by filing a notice of appeal with said commission. A notice of appeal shall be filed not later than thirty days after such denial, except in the case of an unnoticed or secret meeting, in which case the appeal shall be filed not later than thirty days after the person filing the appeal receives notice in fact that such meeting was held.

5. The complainant contends that she did not receive notice of the alleged unnoticed or secret meeting until June 2014, when she received certain records in response to an unrelated records request.

6. It is found that the respondents conducted a meeting on March 13, 2014. It is further found that the March 13th meeting minutes indicated that “Chairman Hampson stated that while the February 13, 2014 meeting of the building committee was cancelled because of snow, the building committee voted unanimously by e-mail to recommend Option 1 to the Board of Selectmen on February 18, 2014.” In addition, it is found that on March 20, 2014, the respondents’ Vice Chairman emailed a copy of the March 13th meeting minutes to minutes@wiltonct.org for posting on the Town’s website.

7. It is found that the respondents also met on March 27, 2014, at which time the March 13th meeting minutes, described in paragraph 6, above, were officially approved by the respondents. In addition, it is found that on April 3, 2014, the respondents’ Vice Chairman emailed a copy of the March 27th meeting minutes to the Executive Assistant to the First Selectman, among others, for posting on the Town website. It is found that, as part of her job, the Executive Assistant to the First Selectman is responsible for receiving the Building Committee’s meeting minutes and for making them available in her office.

8. It is found that the complainant received notice in fact that the respondents may have conducted an unnoticed or secret meeting on March 27, 2014, which is the date that the respondents approved, in public, the minutes for the March 13th meeting.

9. It is found that the notice of appeal in this matter was filed more than thirty days after the complainant received notice in fact that the respondents allegedly conducted an unnoticed or secret meeting.

10. It is concluded that the Commission does not have jurisdiction in this matter.

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 for lack of subject matter jurisdiction.

A handwritten signature in black ink, appearing to read 'Matthew Streeter', written in a cursive style.

Commissioner Matthew Streeter
as Hearing Officer

FIC/2014-444/HOR/MS/PSP/05/13/2015