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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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Rich Saluga,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2015-228

Chairperson, Board of Ethics, Town of Brookfield; Board
of Ethics, Town of Brookfield; and Town of Brookfield,
Respondent(s)

November 9, 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, December 16, 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 December 4, 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 December 4, 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 December 4, 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: Rich Saluga
Thomas W. Beecher, Esq.

2015-11-09/FIC# 2015-228/Trans/wrbp/VDH//KKR

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Rich Saluga,

Complainant

against

Docket #FIC 2015-228

Chairman, Board of Ethics,
Town of Brookfield;
Board of Ethics,
Town of Brookfield; and
Town of Brookfield,

Respondents

October 23, 2015

The above-captioned matter was heard as a contested case on October 15, 2015, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. By letter dated March 23, 2015 and filed March 26, 2015, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information Act ("FOI Act") in the following way: by failing to announce that an executive session, which occurred as part of a February 26, 2015 regular meeting, had concluded and that the public portion of the meeting had reconvened.
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, in relevant part, as follows:

"Executive sessions" means a meeting of a public agency at which the public is excluded for one or more of the following purposes: . . . (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.

5. Section 1-225(f), G.S., provides as follows:

A public agency may hold an executive session as defined in subdivision (6) of section 1-200, upon an affirmative vote of two-thirds of the members of such body present and voting, taken at a public meeting and stating the reasons for such executive session, as defined in section 1-200.

6. The respondent Chairperson appeared at the contested case hearing and provided testimony.

7. It is found that the respondent board properly convened a regular meeting on February 26, 2015. It is found that, after the meeting had been called to order and after having conducted some of the public portion of the meeting, the board's Chairperson moved to enter into executive session to accept two ethics complaints and to conduct a probable cause discussion with regard to the complaints.¹ It is found that the Chairperson's motion was seconded and, thereafter, unanimously supported by the other board members. It is found that, at such time, the public (which consisted only of the complainant) was asked to leave the room. It is found that the complainant left the room and the door to the meeting room was closed.

8. It is found that, once the executive session portion of the respondent board's meeting had concluded, the Chairperson opened the meeting room door and secured the door open with a door wedge. It is found that, as she was securing the door, the Chairperson saw that the complainant was engaged in a conversation with another citizen in the hallway in front of the meeting room. At this time, it is found that the respondents reconvened the meeting in public and continued with their business.

9. The complainant contends that, once the respondents closed the door for the executive session, they never opened it again until the meeting was over and therefore the respondents improperly conducted the business following the executive session behind closed doors. The complainant further contends that this Commission should be suspect of the Chairperson's testimony.

10. However, no evidence was produced at the contested case hearing that would in any way shed a negative light on the Chairperson's testimony.

¹ The Commission notes that §7-148h(a), G.S., permits the respondents to investigate allegations of unethical conduct against any official, officer or employee of their town, with the requirement that the provisions of §1-82a (a) - (e), G.S., apply to any such investigation. The Commission further notes that the §1-82a(a), G.S., provides, in relevant part, that, unless and until a finding of probable cause is made, "a complaint alleging a violation of this part. . . shall be confidential except upon request of the respondent." Accordingly, while not at issue in this case, it is clear that the respondents properly convened in executive session pursuant to §1-200(6)(E) to accept the two ethics complaints and to discuss the allegations contained therein.

11. It is found that the respondents properly conducted the February 26, 2015 executive session.

12. Accordingly, it is 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 hereby dismissed.



Valicia Dee Harmon
Valicia Dee Harmon
as Hearing Officer