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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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Joan L. Zygmunt,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2011-545

Town Counsel, Town of Westport; First  
Selectman, Town of Westport; Town of  
Westport; Chief, Police Department, Town of  
Westport; and Police Department, Town of  
Wesport,

Respondent(s)

July 18, 2012

### 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, August 8, 2012**. 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 July 27, 2012**. 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, the Commission requests that an **original and fourteen (14) copies** be filed **ON OR BEFORE July 27, 2012**. **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 July 27, 2012**, 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: Joan L. Zygmunt  
Gail Kelly, Esq. and Ira Bloom, Esq.

2012/07/18/FIC# 2011-545/Trans/wrbp/LFS//TAH

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Joan L. Zygmunt,

Complainant

against

Docket #FIC 2011-545

Town Counsel, Town of Westport; First  
Selectman, Town of Westport; Town of  
Westport; Chief, Police Department, Town  
of Westport; and Police Department, Town  
of Westport,

Respondents

July 12, 2012

The above-captioned matter was heard as a contested case on July 5, 2012, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and 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 filed October 5, 2011, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by holding a unnoticed, secret meeting on March 17, 2006.
3. It is found that the respondent Town Counsel, First Selectman, and Chief of Police met on March 17, 2006 with an attorney for the town's insurer to discuss a litigation matter against a member of the town's police department.
4. It is found that the complainant learned of such gathering on September 21, 2011.
5. Section 1-225(a), G.S., provides in relevant part: "The meetings of all public agencies ... shall be open to the public..."
6. Section 1-200(2), G.S., defines "meeting" as:  
  
any hearing or other proceeding of a public agency, any convening or assembly of a quorum of a multimember public agency, and any communication by or to a quorum of a multimember public

agency, whether in person or by means of electronic equipment, to discuss or act upon a matter over which the public agency has supervision, control, jurisdiction or advisory power. "Meeting" does not include: ... an administrative or staff meeting of a single-member public agency...

7. It is found that the meeting was held at the request of the attorney for the town's insurer. It is found that it is customary practice for outside counsel to first contact the Town Attorney to schedule a meeting to provide a status update of pending litigation, and for the Town Attorney to attend such meeting. It is found that it is also customary practice for the First Selectman to be present, as well as the department head whose member is the subject of the litigation.

8. It is found that the gathering described in paragraph 3, above, was not an assembly of a quorum of any multimember public agency, within the meaning of §1-200(2), G.S. It is also found that the gathering was not a hearing or other proceeding of any public agency, within the meaning of §1-200(2), G.S.

9. It is concluded, therefore, that the March 17, 2006 gathering described in paragraph 3, above, was not a "meeting," subject to the notice and access requirements of §1-225, G.S.

10. It is concluded that the respondents did not violate the FOI Act as alleged.

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

1. The complaint is dismissed.

  
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Lisa Fein Siegel  
as Hearing Officer