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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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Bradshaw Smith,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2012-410

Stephen Mitchell, Chairman, Board of Directors,
Greater Hartford Transit District; and Greater
Hartford Transit District,
Respondent(s)

April 17, 2013

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, May 8, 2013**. 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 April 26, 2013**. 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 April 26, 2013**. 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 April 26, 2013**, 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: Bradshaw Smith
Adam M. Kasowitz, Esq.

4/17/13/FIC# 2012-410/Trans/wrbp/TCB//LFS

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Bradshaw Smith,

Complainant

against

Docket #FIC 2012-410

Stephen Mitchell, Chairman, Board
of Directors, Greater Hartford, Transit
District; and Greater Hartford, Transit
District,

Respondents

April 5, 2013

The above-captioned matter was heard as a contested case on January 31, 2013 at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

The hearing was adjourned by the hearing officer when the complainant became belligerent and would not comply with the hearing officer's directives in her efforts to restore order to the proceedings.

Notwithstanding the early adjournment of the hearing, both parties were able to present testimony, exhibits and argument on the complaint, providing a more than sufficient record from which to render a decision.

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 dated July 20, 2012, and filed on July 23, 2012, the complainant alleged that the respondents violated §1-200(6), G.S., of the Freedom of Information ("FOI") Act by impermissibly convening in "...executive session for the purpose of reviewing 'proposals'". The complainant requested, among other remedies, that the Commission impose a civil penalty against the individually named respondent.

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

(a) The meetings of all public agencies, except executive sessions, as defined in subdivision (6) of section 1-200, shall be open to the public.

...

(f) 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.

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 1-210(b)(24), G.S., provides that nothing in the FOI Act shall be construed to require the disclosure of :

Responses to any request for proposal or bid solicitation issued by a public agency or any record or file made by a public agency in connection with the contract award process, until such contract is executed or negotiations for the award of such contract have ended, whichever occurs earlier, provided the chief executive officer of such public agency certifies that the public interest in the disclosure of such responses, record or file is outweighed by the public interest in the confidentiality of such responses, record or file.

6. It is found that the respondents issued a request for proposals (“RFP”) on March 28, 2012 for legal services from one or more law firms.

7. It is found that the respondents received responses to its RFP from several law firms.

8. It is found that on May 6, 2012, the executive director of the respondent district and the chairman of the respondent board certified that "the public interest in the disclosure of the responses, record or file is outweighed by the public interest in confidentiality of the responses, record and file" as required by §1-210(b)(24), G.S.

9. It is found that the respondents properly noticed and held a regular meeting on June 21, 2012, the agenda for which provided in relevant part as followings:

6. Consideration of Responses to a Request for Proposals
for Legal Services.

10. It is found that the respondents properly moved and voted to convene in executive session pursuant to §1-225(f), G.S., and that they discussed "consideration of responses to request for proposals for legal services."


11. It is found that at the conclusion of the executive session, the respondents reconvened in open session and voted regarding the RFP responses.

12. Based on the findings, above, it is concluded that the respondents properly convened in executive session for a permissible purpose and did not violate the FOI Act as alleged by the complainant.

13. Consequently, the complainant's request for remedies, including his request for the imposition of a civil penalty, is denied.

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.



Attorney Tracie C. Brown
as Hearing Officer