

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Stacey Joseph,

Complainant

against

Docket # FIC 2017-0318

Chairman, Planning and Zoning
Commission, Town of Stafford;
Planning and Zoning Commission,
Town of Stafford; and Town of
Stafford,

Respondents

February 14, 2018

The above-captioned matter was heard as a contested case on August 14, 2017, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

On August 16, 2017, pursuant to an order of the hearing officer, the respondents submitted an after-filed exhibit, which has been marked as Respondents' Exhibit 3: Agenda for Regular Meeting of May 9, 2017, and Calendar of Meetings (2017).

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 email received on June 8, 2017, the complainant appealed to this Commission, alleging that the respondent Planning and Zoning Commission ("PZC") violated the Freedom of Information ("FOI") Act, and stating that "[t]his complaint involves incidences of whispering and inaudible speech," that occurred at the May 9, 2017, public hearing and regular meeting of the PZC.
3. Section 1-225(a) provides, in relevant part, that "[t]he meetings of all public agencies...shall be open to the public."
4. It is found that prior to the filing of the complaint in this matter, the PZC held several public hearings and meetings, respectively, to consider the reorganization of and revisions to the Town of Stafford's zoning regulations, including, but not limited to, regulations concerning

farms and agriculture (e.g., farm stands and signage), which were of particular interest to the complainant.

5. It is found that during the PZC's public hearing on May 9, 2017, Donald Poland, PhD, AICP, who was hired as a consultant by the Town to assist in the reorganization of and revisions to the zoning regulations, gave a presentation regarding proposed changes to such regulations. It is found that members of the public, including the complainant, were permitted to comment and ask questions of Dr. Poland and the PZC members. It is also found that immediately following the public hearing, the PZC held a regular meeting, at which time the PZC, after discussing the proposed changes to the regulations, among other matters, unanimously voted to approve such changes.

6. At the hearing, the complainant testified that during the public hearing and regular meeting, respectively, members of the public, including the complainant, could not hear portions of the presentation and discussions concerning the proposed changes to the zoning regulations. Specifically, the complainant testified that during Dr. Poland's presentation he spoke "quietly" and in a "mumbling voice" so that members of the public who were present at the meeting could not hear what was being said. She testified that Dr. Poland, upon request by members of the public, briefly spoke up, but then drifted back to using a "really quiet tone." The complainant also testified that during the public comment period at the public hearing, the PZC Chairman and Dr. Poland had a "private conversation for a good while." In addition, the complainant testified that, during the regular meeting, prior to voting on the proposed changes to the zoning regulations, the PZC members intentionally "turned inward" toward and "whispered" to one another, and had a "private conversation." The complainant testified that even though she and another member of the public were sitting "feet away" from the table at which the PZC members were all seated, they could not hear what was being discussed by the PZC members.

7. At the hearing, the Chairman testified that the PZC did not intentionally conduct the May 9, 2017, public hearing and meeting, in such a manner as to prevent members of the public, including the complainant, from hearing the presentation and discussion that occurred. The Chairman acknowledged that the room (i.e., an auditorium with high ceilings) in which the May 9th public hearing and meeting were held, had poor acoustics, and testified that if the hearing and meeting had been held in a smaller room, as had been done in the past, the presentation and discussion would have been audible. The Chairman also testified that her conversation with Dr. Poland was simply to determine whether he or she should respond to a question posed by a member of the public. In addition, the Chairman acknowledged that, at the end of the meeting, prior to voting on the proposed changes to the regulations, the PZC members had a conversation, but that such conversation was just procedural in terms of whether the discussion on the proposed changes was completed.

8. It is found that no member of the public, including the complainant, informed the PZC members that they could not hear the conversation between the members, described in paragraph 7, above.

9. It is found that the respondents did not intentionally speak in quiet and inaudible

tones during the public hearing and regular meeting, such that the public effectively was excluded from such proceedings.

10. It is concluded, therefore, based on the facts and circumstances of this case, that the respondents did not violate §1-225(a), G.S., 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.

2. Although the Commission found that, under the facts and circumstances presented, the complainant was not denied access to the public hearing and regular meeting in question, it cautions the respondents to be mindful of such occurrences, given the appearance of impropriety, and urges the respondents to strengthen its commitment to public access in the future.

Approved by Order of the Freedom of Information Commission at its regular meeting of February 14, 2018.



Cynthia A. Cannata
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

STACEY JOSEPH, 5 Collette Road West, Stafford, CT 06076

**CHAIRMAN, PLANNING AND ZONING COMMISSION, TOWN OF STAFFORD;;
PLANNING AND ZONING COMMISSION, TOWN OF STAFFORD; AND TOWN
OF STAFFORD**, c/o David Perkins, 1 Main Street, Stafford, CT 06076



Cynthia A. Cannata
Acting Clerk of the Commission