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FREEDOM OF INFORMATION



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Anthony D'Angelo,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2015-821

Chairman, Lake Zoar Authority; and Lake Zoar Authority,
Respondent(s)

July 5, 2016

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, July 27, 2016**. 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 15, 2016**. 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 July 15, 2016**. **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 July 15, 2016**, 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: Anthony D'Angelo
Chairman, Lake Zoar Authority; and Lake Zoar Authority

FIC# 2015-821/Trans/wrbp/TCB//TAH/2016-07-05

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Anthony D'Angelo,

Complainant

against

Docket #FIC 2015-821

Chairman, Lake Zoar Authority;
and Lake Zoar Authority

Respondents

June 23, 2016

The above-captioned matter was heard as a contested case on February 17, and May 16, 2016, at which times 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 dated and filed on December 2, 2015, the complainant appealed to this Commission alleging that the respondents had failed to comply with its order in Docket #FIC2015-139, Anthony D'Angelo v. Chairman, Lake Zoar Authority; and Lake Zoar Authority (October 28, 2015) (hereinafter "Docket #FIC2015-139"). The complainant requested the imposition of a civil penalty.
3. The Commission takes administrative notice of the record and decision in Docket #FIC2015-139.
4. The Commission's order in Docket #FIC2015-139 was as follows:
 - a. If they have not done so, the respondents shall, as similarly ordered by the Commission in Docket #FIC 2005-054, (a) designate a place as its "regular office or place of business," and specify regular hours when such office or place of business is open to the public, or (b) keep the LZA's records in the office of the clerk of each of the four towns identified in paragraph 10 of the

findings, above. The respondents shall provide notice to the complainant and the Commission of their decision, within 30 days of the Commission's final decision. If the respondents have already designated a place as its "regular office or place of business" or are maintaining the LZA's records in the office of the clerk of each of the four towns identified in paragraph 10 of the findings, above, the respondents shall provide notice to the complainant and the Commission, within 30 days of the Commission's final decision.

- b. Henceforth, the respondents shall file the minutes of their meetings in accordance with §1-225, G.S.

5. It is found that, upon receipt of the Proposed Final Decision and Report of Hearing Officer in Docket #FIC2015-139, the respondents provided the complainant and the Commission with a letter dated October 14, 2015 in compliance with the order described in paragraph 4a, above. It is found that the respondents stated in that letter that it will not designate a regular office or place of business but will keep the minutes of the respondent authority's meetings at the member town clerks' offices.

6. It is found that it was the respondents' intention that the October 14, 2015 letter serve as compliance with the Commission's order.

7. At the hearing on this matter, the complainant contended that the respondents failed to provide notice of their decision within 30 days after the final decision because the October 14, 2015 letter was sent before the final decision was issued and therefore, was not sent in compliance with the order in the final decision.

8. It is found, however, that the complainant's contention is one of form over substance and that the respondents' October 14, 2015 letter sufficiently complied with the Commission's order described in paragraph 4a, above.

9. With respect to the Commission's order described in paragraph 4b, above, the respondents conceded that the minutes of the respondent authority's meetings were not always filed within the appropriate number of days or in the clerks' offices of all four member towns and that, therefore, they have been in violation of the minutes provisions of §1-225, G.S.

10. Consequently, it is found that the respondents failed to comply with the Commission's order described in paragraph 4b, above.

11. It is found, however, that since this Commission's final decision in Docket #FIC2015-139, the respondent authority appointed a FOI Liaison. It is found that the respondents have had two training sessions conducted by this Commission's education officer and that the liaison has consulted with him on several occasions in an effort to

bring the respondent authority into compliance with the provisions of §1-225, G.S., and all other applicable provisions of the FOI Act.


12. It is also found that because the town clerks of Newtown, Oxford and Southbury have not consented to the respondent authority maintaining its records in their offices, the respondent authority's records are presently only maintained at the clerk's office of the town of Monroe.

13. At the hearing on this matter, the respondents assured the Commission that it was committed to complying with the FOI Act and the Commission's final decision in Docket #FIC2015-139, but with volunteer members and the reluctance of the town clerks, full compliance had been challenging.

14. It is found, therefore, that the respondents' failure to fully comply with the Commission's order described in paragraph 4b was not without reasonable grounds and therefore no civil penalty will be imposed.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint, which order shall supersede the order in Docket #FIC2015-139:

1. Forthwith, the respondents shall continue to maintain the records of the respondent authority at the office of the town clerk of Monroe and shall have posted, prominently, on the respondent authority's website a notice that the records are available at that location specifying the address and business hours of that town clerk's office.
2. Henceforth, the respondents shall comply with the minutes provisions of §1-225, G.S.



Attorney Tracie C. Brown
as Hearing Officer