



FREEDOM OF INFORMATION

Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
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Lorraine Tirella,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2016-0705

Steven S. Macary, Zoning Enforcement Official, Town of Oxford;
Chairman, Planning and Zoning Commission, Town of Oxford;
Planning and Zoning Commission, Town of Oxford; and
Town of Oxford,
Respondent(s)

March 29, 2017

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, April 26, 2017**. 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 13, 2017**. 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 April 13, 2017**. **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 April 13, 2017**, 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: Lorraine Tirella
Attorney Peter S. Olson

FIC# 2016-0705/Trans/wrbp/LFS//TAH/2017-03-29

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Lorraine Tirella,

Complainant

against

Docket #FIC 2016-0705

Steven S. Macary, Zoning Enforcement
Official, Town of Oxford; Chairman,
Planning and Zoning Commission, Town
of Oxford; Planning and Zoning
Commission, Town of Oxford; and
Town of Oxford,

Respondents

March 2, 2017

The above-captioned matter was heard as a contested case on January 4, 2017, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. This matter was consolidated for hearing with Docket #FIC 2016-0749; Lorraine Tirella v. Chairman, Planning and Zoning Commission, Town of Oxford; Planning and Zoning Commission, Town of Oxford; and Town of Oxford.

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 6, 2016, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to promptly provide records she requested, failing to make minutes available within the time period set forth in the FOI Act, and failing to provide other records. The complainant requested the imposition of a civil penalty.
3. Section 1-200(5), G.S., provides:

Public records or files means any recorded data or information relating to the conduct of the public's business prepared, owned, used, received or retained by a public agency, ... whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.
4. Section 1-210(a), G.S., provides, in relevant part:

Except as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to (1) inspect such records promptly during regular office or business hours, ... or (3) receive a copy of such records in accordance with section 1-212.

5. Section 1-212(a), G.S., provides in relevant part: “Any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.

6. It is found that the records requested by the complainant are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

7. It is found that on September 1, 2016, the complainant requested by email a copy of the Zoning Certificate of Compliance for Phase 1 of the Oxford Towne Center.

8. It is found that the respondent Zoning Enforcement Official (“ZEO”) informed the complainant by return email that he would get her a copy of the zoning certificate of compliance “in the next week or two if I have time.”

9. It is found that the ZEO provided a copy of the certificate of compliance on September 15, 2016. It is found that the ZEO failed to provide the record requested by the complainant in a timely manner.

10. It is found that on September 21, 2016, the complainant asked by email to see a copy of the “complete Dust Control Plan for the site of the property of Haynes/Oxford Towne Center/Quarry walk.” It is found that the complainant did not receive the records she requested, and asked again for the records on October 4, 2016.

11. It is found that the respondents provided the requested Plan – a single page – on October 5, 2016. It is found that the respondents failed to provide such record in a timely manner.

12. It is found that on October 3, 2016, the complainant requested to see minutes of the respondent commission’s meeting of September 20, 2016. It is found that the complainant wished to review the minutes in preparation for the commission meeting of October 4, 2016. It is found that the respondents’ administrative secretary informed the complainant on October 3, 2016 that the minutes were not yet finished because the commission wanted the minutes to be a verbatim record of the meeting. It is found that the secretary finished transcribing the minutes on October 5, 2016, and emailed them to the complainant on that date.

13. Section 1-225(a), G.S., provides in relevant part: “Not later than seven days after the date of the session to which such minutes refer, such minutes shall be available for public inspection[.]”

14. The respondents concede, and it is found, that the minutes for the commission’s meeting of September 20, 2016, were not available for public inspection within seven days after the date of the meeting.

15. It is found that the complainant also made several requests for a copy of the “legal notice” to abutting property owners concerning the conceptual plan of the Oxford Towne Center.

16. It is found that the respondents provided a copy of the notice they maintain. It is found that the respondents do not maintain any other records responsive to the complainant’s request for “legal notice.”

17. It is concluded that the respondents violated §§1-210(a), 1-212(a), and 1-225(a), G.S., as described in paragraphs 9, 11, and 14, above.

18. After consideration of the entire record in this case, the Commission declines to consider the imposition of civil penalties against the respondent

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

1. Henceforth, the respondents shall comply with the requirements of §§1-210(a), 1-212(a), and 1-225(a), G.S.



Lisa Fein Siegel
as Hearing Officer