

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Robert Young,

Complainant

against

Docket #FIC 2018-0602

Town Manager, Town of
Wethersfield; and Town of
Wethersfield,

Respondents

September 11, 2019

The above-captioned matter was heard as a contested case on January 2, 2019 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. It is found that, with respect to the November 6, 2018 election, the Town of Wethersfield included on its ballot a referendum question regarding the town's possible purchase of a property known as Kycia Farm for over \$2,000,000.00
3. It is found that the complainant wished to see appraisal information for Kycia Farm prior to the election. Accordingly, by email dated October 1, 2018, the complainant requested that the respondents provide him with copies of any appraisals performed by the Town of Wethersfield or others for the Kycia Farm. It is found that the respondents acknowledged such request by return email dated October 5, 2018.
4. It is found that, on October 12, 2018, the respondents provided the complainant with a copy of the appraisal prepared for the owner of Kycia Farm. It is further found that, by email dated October 12, 2018, the complainant thanked the respondents for such copy but also inquired as to when he could expect a copy of the appraisal prepared for the Town of Wethersfield.
5. It is found that, by email dated October 25, 2018, the respondents informed the complainant that they believed that §1-210(b)(7), G.S., exempted the town's appraisal.

6. By complaint filed with the Commission on October 25, 2018, the complainant appealed to the Commission and alleged that the respondents violated the FOI Act by failing to provide him with a copy of the town's appraisal.

7. 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, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

8. Section 1-210(a), G.S., provides in relevant part that:

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 . . . (3) receive a copy of such records in accordance with section 1-212.

9. Section 1-212(a), G.S., provides in relevant part that “[a]ny person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

10. It is found that the town's appraisal, which is the record responsive to the complainant's request, is maintained by the respondents, and is a public record within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

11. At the hearing on this matter, the respondents contended that the requested record is exempt from mandatory disclosure by virtue of §1-210(b)(7), G.S.

12. Section 1-210(b)(7), G.S., exempts from mandatory disclosure:

The contents of real estate appraisals, engineering or feasibility estimates and evaluations made for or by an agency relative to the acquisition of property or to prospective public supply and construction contracts, until such time as all of the property has been acquired or all proceedings or transactions have been terminated or abandoned, provided the law of eminent domain shall not be affected by this provision.

13. It is found that the requested record constitutes a real estate appraisal made for or by the respondents relative to the acquisition of property, within the meaning of §1-210(b)(7), G.S.

14. It is also found that, at the time of the request and denial at issue in this matter, the property at issue, the Kycia Farm, had not been acquired by the town, within the meaning of §1-210(b)(7), G.S.

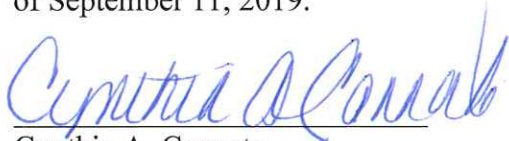
15. At the hearing on this matter, the complainant contended that the Commission should read into §1-210(b)(7), G.S., an exception for ballot issues concerning the acquisition of property by municipalities, as a matter of good public policy. However, the language of the exemption is plain and unambiguous, and the Commission may not read into enacted law words which are not there. The complainant's concern is more appropriately addressed to the legislature.

16. It is concluded that the requested record was exempt from mandatory disclosure by virtue of §1-210(b)(7), G.S., at the time of the denial in this matter. Accordingly, it is further concluded that the respondents did not violate §§1-210(a) and 1-212(a), 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.

Approved by Order of the Freedom of Information Commission at its regular meeting of September 11, 2019.



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:

ROBERT YOUNG, 20 Coppermill Road, Wethersfield, CT 06109

TOWN MANAGER, TOWN OF WETHERSFIELD; AND TOWN OF WETHERSFIELD, c/o Attorney John W. Bradley, Jr., and Attorney Nathan C. Favreau, Rome McGuigan, P.C., One State Street, 21st Floor, Hartford, CT



Cynthia A. Cannata
Acting Clerk of the Commission