



# FREEDOM OF INFORMATION



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

Notice of Meeting

Docket #FIC 2012-623

Chairman, Lake Chaffee Improvement  
Association; and Lake Chaffee Improvement  
Association,

Respondent(s)

July 23, 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, August 14, 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 August 2, 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, an **original and fourteen (14) copies** must be filed **ON OR BEFORE August 2, 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 August 2, 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: Richard Rodrigue  
Chairman, Lake Chaffee Improvement Association  
Lake Chaffee Improvement Association

2013-07-23/FIC# 2012-623/Trans/wrbp/VDH/TAH

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Richard Rodrigue,

Complainant

against

Docket #FIC 2012-623

Chairman, Lake Chaffee  
Improvement Association; and  
Lake Chaffee Improvement  
Association,

Respondents

July 22, 2013

The above-captioned matter was heard as a contested case on April 5, 2013, 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. By undated letter received and filed on November 2, 2012, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information Act ("FOI Act") in the following ways:
  - a. By failing, for approximately one year, to post the agendas and the minutes of the Lake Chaffee Improvement Association's ("LCIA") monthly meetings;
  - b. By conducting a meeting on October 30, 2012 at 6:30 PM with the assistance of a generator, while LCIA homeowners were experiencing a power outage due to a snow storm; and
  - c. By sending the LCIA homeowners a letter enclosing a "vote card," which card did not contain either an alpha or

numeric indexing system to ensure that an accurate vote was taken.

3. Section 1-206(b)(1), G.S., provides, in relevant part, as follows:

Any person denied the right to inspect or copy records under section 1-210 or wrongfully denied the right to attend any meeting of a public agency or denied any other right conferred by the Freedom of Information Act may appeal therefrom to the Freedom of Information Commission, by filing a notice of appeal with said commission. A notice of appeal shall be filed not later than thirty days after such denial. . . .

4. Section 1-210(a), G.S., provides, in relevant part, as follows:

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, (2) copy such records . . . , or (3) receive a copy of such records in accordance with section 1-212. Any agency rule or regulation, or part thereof, that conflicts with the provisions of this subsection or diminishes or curtails in any way the rights granted by this subsection shall be void. Each such agency shall keep and maintain all public records in its custody at its regular office or place of business in an accessible place and, if there is no such office or place of business, the public records pertaining to such agency shall be kept in the office of the clerk of the political subdivision in which such public agency is located . . .

5. Section 1-225(a), G.S., provides, in relevant part, as follows:

The meetings of all public agencies . . . shall be open to the public. The votes of each member of any such public agency upon any issue before such public agency shall be reduced to writing and made available for public inspection within forty-eight hours and shall also be recorded in the minutes of the session at which taken. Not later than seven days after the date of the session to which such minutes refer, such minutes shall be available for public inspection and posted on such public agency's Internet web site, if available, except that no public agency of a political subdivision of the state shall be required

11. In Zoning Board of Appeals of the Town of Plainfield, et al. v. FOIC, et al., Superior Court, Docket No. 99-0497917-S, Judicial District of New Britain, Memorandum of Decision dated May 3, 2000 (Satter, J.), reversed on other grounds, 66 Conn. App. 279 (2001), the court observed that one purpose of a meeting agenda “is that the public and interested parties be apprised of matters to be taken up at the meeting in order to properly prepare and be present to express their views,” and that “[a] notice is proper only if it fairly and sufficiently apprises the public of the action proposed, making possible intelligent preparation for participation in the hearing.”

12. In addition, in Borough of Woodmont v. FOIC, CV064010811, 2007 Conn. Super. LEXIS 2450, at \*17 (Conn. Super. Ct. Sept. 20, 2007), the court affirmed the Commission’s decision in which it was held that §1-210(a), G.S., “requires access to public records during regular business hours at an agency’s place of business or, if this is deemed to be too burdensome, the agency may choose to maintain their records at the office of the town clerk.”

13. With regard to the complainant’s contention that the Lake Chaffee residents have been without access to the LCIA’s agendas and meeting minutes for approximately one year, it is found that the notice of appeal in this matter was filed on November 2, 2012, and, therefore, pursuant to the language of §1-206, G.S., any posting or access violations occurring prior to October 4, 2012 are outside the scope of the Commission’s jurisdiction in this matter.

14. Nonetheless, it is found that one meeting of the LCIA—the October 30, 2012 special meeting—fell within the thirty-day time frame of the filing of the November 2, 2012 complaint. It is found that, based on the condition of the informational board at the time of this meeting, the LCIA failed to give the public proper notice of the matters planned for discussion at the October 30, 2012 meeting.

15. It is therefore concluded that the respondents violated the provisions of §1-225(d), G.S.

16. It further found that the respondents presented sufficient evidence from which it is found that they have been timely creating meeting minutes. However, due to the size of the informational board, it is found that such minutes were not “available for public inspection,” within the meaning of §1-225(a), G.S.

17. It is therefore concluded that the respondents violated the provisions of §1-225(a), G.S.

18. With regard to the complainant’s second contention, it is found that, while conducting a meeting during a blackout by means of a generator may not be an optimal manner for ensuring the public’s attendance, it is not a violation of the FOI Act. It is found that various individuals showed up at the October 30, 2012 meeting during the snow storm to express their concerns that, because many of the residents were without power, the meeting

to post such minutes on an Internet web site. Each public agency shall make, keep and maintain a record of the proceedings of its meetings.

6. Section 1-225(c), G.S., provides, in relevant part, as follows:

The agenda of the regular meetings of every public agency . . . shall be available to the public and shall be filed, not less than twenty-four hours before the meetings to which they refer, (1) in such agency's regular office or place of business, and (2) . . . in the office of the clerk of such subdivision for any public agency of a political subdivision of the state. . . .

7. Section 1-225(d), G.S., provides, in relevant part, as follows:

Notice of each special meeting of every public agency . . . shall be posted not less than twenty-four hours before the meeting to which such notice refers on the public agency's Internet web site, if available, and given not less than twenty-four hours prior to the time of such meeting by filing a notice of the time and place thereof . . . in the office of the clerk of such subdivision for any public agency of a political subdivision of the state. . . .

8. It is found that the complainant is a resident homeowner in the Lake Chaffee community.

9. It is found that the respondent chairman oversees the meetings of the LCIA. It is further found that the respondent association was formed to manage and address issues concerning the upkeep, maintenance, and governance of the Lake Chaffee community.

10. With regard to the complainant's first contention, it is found that that LCIA conducts both regular and special meetings at Chaffee Hall, a public meeting area on the grounds of Lake Chaffee. It is found that, while Chaffee Hall is the respondents' place of business, the respondents do not have regular "business hours," during which time the Lake Chaffee residents can enter and request to see LCIA's agendas and meeting minutes. Rather, it is found that the LCIA provides notice of and information about its meetings, through the use of an informational board which hangs on a wall inside of Chaffee Hall. It is further found that the informational board was torn down during a 2012 snow storm. It is found that the informational board was left in a state of disrepair until approximately January 9, 2013. It is further found that, at this time, although the informational board has been repaired, the size of the board does not allow the public meaningful access to the LCIA's agendas and meeting minutes, as the board is small, permitting inspection of only the top page of any document posted. Additionally, it is found that the board remains, as all times, locked.

should not go forward. It further found that, based on these concerns, the respondents postponed the meeting.

19. With regard to the complainant's third contention, it is found that, at the respondents' October 10, 2012 meeting, the LCIA members voted to recommend a change to the Lake Chaffee Charter. It is further found that, subsequent to this vote, the LCIA issued a vote card to the Lake Chaffee residents so that the residents themselves could decide whether or not the recommended charter revision would go into effect. It is found that vote card clearly noted the recommended changes to the charter in bold lettering and gave instructions on how the residents should return the vote card to the LCIA for tally. It is found that none of these actions violated the FOI Act.


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 strictly comply with the requirements of §1-225(d), G.S., by ensuring their meeting agendas are available to the public at least twenty-four hours before any meeting occurs.

2. Henceforth, the respondents shall strictly comply with the requirements of §1-225(a), G.S., by ensuring that their meeting minutes are available for public inspection.

3. If the respondents desire to make their meeting agendas and minutes available by way of the informational board in Chaffee Hall, they must ensure that such board is large enough so that all pages posted on such board are visible.

4. In addition, the respondents should consider whether establishing and maintaining regular business hours at Chaffee Hall, which hours could be on any one day for at least one hour per week, or maintaining their public records at the Ashford Town Clerk's Office might be an effective manner for resolving the access issues discussed in this decision.

  
Valicia Dee Harmon  
as Hearing Officer