

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

John Barney and Marek Kement,

Complainants

against

Docket #FIC 2017-0279

Chairman, Board of Assessment Appeals,
Town of East Windsor; Board of
Assessment Appeals, Town of East
Windsor; and Town of East Windsor,

Respondents

February 28, 2018

The above-captioned matter was heard as a contested case on August 7, 2017, at which time the complainants 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, by letter dated April 20, 2017, the complainants requested that the respondents provide them with a copy of the following records:
 - a. . . . all appraisals, all third party revaluations, all calculations, all notes, a list of comparable properties sold within and up to the last 5 years, all land value evaluations, and all other supporting documents that the Town of East Windsor Board of Assessment Appeals used to deny our/Owner's \$100.00 Estimate of value appeal of the October 1, 2016 Assessment, but adjusted/reduced the Assessment for 191 Depot Street (a.k.a. Parcel A; a.k.a. Map 090/Block 77/Lot 006A), from \$43,860.00 to \$9,030.00 as the New Assessment in its decision dated March 20, 2017; and

- b. . . . all appraisals, all third party revaluations, all calculations, all notes, a list of comparable properties sold within and up to the last 5 years, and all other supporting documents the Town of East Windsor Board of Assessment Appeals used to deny our/Owner's \$4,365.00 Estimate of value appeal of the October 1, 2016, \$40,960.00 Assessment, for 38 Sullivan Farms Road, and deem[ed] \$40,960.00 is Fair and Equitable in its decision, dated March 20, 2017.

3. It is found that, by letter dated April 24, 2017, the respondents acknowledged the complainants' request and stated that they were investigating whether they maintained responsive records that had to be disclosed.

4. It is found that, by letter dated May 2, 2017, the respondents forwarded the complainants 71 pages of records and indicated that the complainants should remit \$35.50 to the respondents for the cost of such copies.

5. By email dated and filed May 22, 2017, the complainants appealed to this Commission, alleging that the respondents violated the FOI Act by failing to provide them with records responsive to the request.

6. 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.

7. 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, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212.

8. 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.”

9. It is found that the records requested by the complainants in paragraph 2, above, are public records within the meaning of §§1-200(5), 1-210(a), 1-212(a), G.S., and must be disclosed unless they are exempt from disclosure.

10. It is found that, on or around October 1, 2016, the complainants received a tax assessment on two of their properties. The complainants appealed both assessments to the Board of Assessment Appeals for the Town of East Windsor (the “board”). It is found that, on March 9, 2017, the board held a hearing on both of the appeals. It is found that, on March 20, 2017, the board issued two separate decisions. It is found that, with regard to one property, the board issued an assessment reduction in the amount of \$34,830; with regard to the other property, no assessment reduction was issued. It is found that Complainant Barney has appealed the board’s decisions to the Superior Court’s Tax and Administrative Appeals Session.

11. At the contested case hearing, the complainants contended that, despite the fact that the respondents had provided them with records, there had to be more records responsive to their request. Specifically, the complainants contended that the respondents should have records that explain how the board decided to issue a tax reduction for one property, but not the other property.

12. Caroline Madore, the Tax Assessor for the Town of East Windsor, appeared at the contested case hearing and provided testimony.

13. It is found that, under cover letter dated May 2, 2017, the respondents provided the complainants with 71 pages of responsive records. Thereafter, it is found that the respondents provided the complainants with a 57-page document entitled, “East Windsor 2012 Revaluation Cost Book.” Finally, it is found that the respondents provided the complainants with an 82-page data breakdown, which lists property sales along with their most recent values.

14. At the contested case hearing, the complainants questioned where and when decisions on their assessment appeals were made. It is found that the board, prior to issuing its March 20th decisions on the complainants’ assessment appeals, deliberated on those decisions in public—that is, the board did not convene in an executive session to deliberate on the complainants’ assessment appeals prior to issuing its March 20th decisions.

15. It is found that all of the records related to each assessment appeal are maintained in a separate assessment appeal file. It is found that Ms. Madore maintains all assessment appeals files in her office.

16. With regard to the complainants’ appeals, it is found that the respondents have disclosed all of the records in both of the assessment appeals files to the complainants.

17. It is therefore concluded that the respondents did not violate the disclosure provisions of the FOI Act, 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 dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of February 28, 2018.



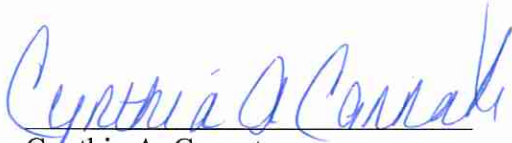
Cynthia A. Cannata
Acting Clerk of the Commission

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:

JOHN BARNEY, PO Box 41, Tariffville, CT 06081, **AND MAREK KEMENT**, 41 Perri Lane, Broad Brook, CT 06016

CHAIRMAN, BOARD OF ASSESSMENT APPEALS, TOWN OF EAST WINDSOR; BOARD OF ASSESSMENT APPEALS, TOWN OF EAST WINDSOR; AND TOWN OF EAST WINDSOR c/o Attorney Joshua A. Hawks-Ladds, Pullman & Comley, LLC, 90 State House Square, Hartford, CT 06103



Cynthia A. Cannata
Acting Clerk of the Commission