

TO: Freedom of Information Commission
FROM: Danielle L. McGee
DATE: March 12, 2020
RE: Minutes of the Commission's regular meeting of March 11, 2020

A regular meeting of the Freedom of Information Commission was held on March 11, 2020, in the Freedom of Information Hearing Room, 18-20 Trinity Street, Hartford, Connecticut. The meeting convened at 2:17 p.m. with the following Commissioners present:

Commissioner Owen P. Eagan, presiding
Commissioner Jay Shaw (participated via speakerphone)
Commissioner Jonathan J. Einhorn
Commissioner Matthew Streeter
Commissioner Christopher P. Hankins
Commissioner Stephen Fuzesi, Jr.

Also present were staff members, Mary E. Schwind, Victor R. Perpetua, Valicia D. Harmon, Kathleen K. Ross, Paula S. Pearlman, Matthew D. Reed, Danielle L. McGee, and Cindy Cannata.

The Commissioners unanimously voted to approve the Commission's regular meeting minutes of February 26, 2020.

Those in attendance were informed that the Commission does not ordinarily record the remarks made at its meetings, but will do so on request.

[Docket #FIC 2019-0385](#)

William Holmes v. Chief, Police Department, City of New London; Police Department, City of New London; and City of New London

William Holmes participated via speakerphone. Attorney Brian K. Estep appeared on behalf of the respondents. The Commissioners unanimously voted to amend the Hearing Officer's Report.* The Commissioners unanimously voted to adopt the amended Hearing Officer's Report. The proceedings were recorded digitally.

[Docket #FIC 2019-0484](#)

Victor Velasco v. Rollin Cook, Commissioner, State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction

Victor Velasco participated via speakerphone. Attorney Jennifer Lepore appeared on behalf of the respondents. The Commissioners unanimously voted to consolidate Dockets #FIC 2019-0484, Docket #FIC 2019-0485, and Docket #FIC 2019-0486. The Commissioners unanimously voted to adopt the Hearing Officer's Report. The proceedings were recorded digitally.

[Docket #FIC 2019-0485](#)

Victor Velasco v. Rollin Cook, Commissioner, State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction

Victor Velasco participated via speakerphone. Attorney Jennifer Lepore appeared on behalf of the respondents. The Commissioners unanimously voted to consolidate Dockets #FIC 2019-0484, Docket #FIC 2019-0485, and Docket #FIC 2019-0486. The Commissioners unanimously voted to adopt the Hearing Officer's Report. The proceedings were recorded digitally.

[Docket #FIC 2019-0486](#)

Victor Velasco v. Rollin Cook, Commissioner, State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction

Victor Velasco participated via speakerphone. Attorney Jennifer Lepore appeared on behalf of the respondents. The Commissioners unanimously voted to consolidate Dockets #FIC 2019-0484, Docket #FIC 2019-0485, and Docket #FIC 2019-0486. The Commissioners unanimously voted to adopt the Hearing Officer's Report. The proceedings were recorded digitally.

[Docket #FIC 2019-0159](#)

Ross Garber v. Commissioner, State of Connecticut, Department of Banking; and State of Connecticut, Department of Banking

Attorney Ross Garber appeared on his own behalf. Attorney John Langmaid appeared on behalf of the respondents. The Commissioners voted, 5-0, to amend the Hearing Officer's Report.* Commissioner Shaw did not participate. The Commissioners voted, 4-0, to adopt the amended Hearing Officer's Report. Commissioner Shaw did not participate. Commissioner Einhorn did not participate. The proceedings were recorded digitally.

[Docket #FIC 2019-0161](#)

Rachel de Leon v. Chief, Police Department, City of Bridgeport; Police Department, City of Bridgeport; and City of Bridgeport

Attorney Alexa Millinger appeared on behalf of the complainant. Attorney Dina Scalo appeared on behalf of the respondents. The Commissioners voted, 5-0, to adopt the Hearing Officer's Report. Commissioner Shaw did not participate. The proceedings were recorded digitally.

[Docket #FIC 2019-0318](#)

Barbara Saggese and Beachcroft LLC v. President, Pine Orchard Association; and Pine Orchard Association

The Commissioners voted, 5-0, to amend the Hearing Officer's Report.* Attorney Einhorn abstained. The Commissioners voted, 5-0, to adopt the amended Hearing Officer's Report.* Attorney Einhorn abstained.

[Docket #FIC 2019-0417](#)

Tanisha Laurel-Moorer v. Chief, Police Department, Town of Bethel; Police Department, Town of Bethel; and Town of Bethel

The Commissioners unanimously voted to adopt the Hearing Officer's Report.

[Docket #FIC 2019-0423](#)

Pamela Chiang v. President, State of Connecticut, Eastern Connecticut State University; and State of Connecticut, Eastern Connecticut State University

The Commissioners unanimously voted to adopt the Hearing Officer's Report.

[Docket #FIC 2019-0584](#)

David Collins and The New London Day v. Chairman, State of Connecticut, Connecticut Port Authority; and State of Connecticut, Connecticut Port Authority

David Collins appeared on his own behalf. Attorney Christopher J. Hug appeared on behalf of the respondents. The Commissioners voted, 5-0, to adopt the Hearing Officer's Report. Commissioner Fuzesi abstained. The proceedings were recorded digitally.

The Commissioners voted, 4-0, to Summarily Deny Leave to Schedule a Hearing Pursuant to Connecticut General Statutes §1-206(b)(2) in *James Torlai v. Chief, Police Department, Town of Darien; Police Department, Town of Darien; and Town of Darien*, Docket # FIC 2019-0298. Commissioner Shaw did not participate. Commissioner Einhorn did not participate. The proceedings were recorded digitally.

The meeting was adjourned at 4:42 p.m.

Danielle L. McGee
MINREGmeeting 03112020/dlm/03122020

* See attached for amendments

AMENDMENTS

[Docket #FIC 2019-0385](#)

William Holmes v. Chief, Police Department, City of New London; Police Department, City of New London; and City of New London

Paragraph 15 of the Hearing Officer's Report is amended as follows:

15. Based on the credible testimony of the respondents, it is found that the respondents conducted a reasonable and diligent search and have not been able to locate any additional responsive records. Consequently, it is found that the respondents did not violate the FOI Act as alleged by the complainant. **HOWEVER, IT IS IMPERATIVE THAT PUBLIC AGENCIES HAVE A DUTY TO SAFEGUARD THEIR PUBLIC RECORDS AS PROVIDED BY LAW, AND THE COMMISSION IS FURTHER CONCERNED** [However, the Commission is concerned] that the respondents initially relied upon their prior search for records in response to the November 16, 2018 FOI Act request by Attorney Kahn, and is also concerned that the respondents did not acknowledge the complainant's June 20, 2019 request, or otherwise communicate with him about the status of his pending request, prior to providing their exhibits for the hearing.

[Docket #FIC 2019-0159](#)

Ross Garber v. Commissioner, State of Connecticut, Department of Banking; and State of Connecticut, Department of Banking

Paragraph 34 of the Hearing Officer's Report is amended as follows:

34. Additionally, it is found that the respondents contended that the records identified as IC007220-IC007239 were also exempt from disclosure solely because such records constituted preliminary drafts of records which were prepared by staff members and subject to revision prior to submission to or discussion among the members of the agency pursuant to §1-210(b)(1), G.S. However, after careful examination of such records, it is found that IC007220-IC007228 and IC007236-IC007239 are not preliminary drafts as contended by the respondents, but [are instead records exempt from release pursuant to §§36a-21(a)(1) and 36(a)(2), G.S.] **INSTEAD CONTAIN INFORMATION CONTAINED IN OR DERIVED FROM EXAMINATION OR INVESTIGATIVE REPORTS OF THE RESPONDENTS AND ARE THEREFORE EXEMPT FROM RELEASE PURSUANT TO §36a-21(a)(1), G.S.** Accordingly, it is concluded that the respondents did not violate the FOI Act by denying the complainant access to such records.

[Docket #FIC 2019-0318](#)

Barbara Saggese and Beachcroft LLC v. President, Pine Orchard Association; and Pine Orchard Association

Strike all after first introductory paragraph, and add:

The above-captioned matter was heard as a contested case on August 5, 2019, at which time the complainants and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. On February 7, 2020, the hearing officer issued a Hearing Officer's Report.

Subsequently, by email received on March 10, 2020, the complainants withdrew their complaint. The Commission takes administrative notice of such withdrawal.

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

1. Based on the withdrawal of the complaint, the case is hereby dismissed.