

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

William Choma, Jr.,

Complainant

against

Docket #FIC 2018-0196

President, Princess Pocotopaug
Corporation; and Princess Pocotopaug
Corporation,

Respondents

December 19, 2018

The above-captioned matter was heard as a contested case on August 6, 2018, 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. It is found that the respondents are public agencies within the meaning of §1-200(1), G.S.
2. It is found that, on April 14, 2018, the complainant requested “to view all bank statements of the Princess Pocotopaug Corporation/Association for the fiscal years ending 2011, 2012, 2013, 2014, 2015, 2016, and 2017. This shall include all savings, checking and certificate of deposit information.” The complainant also requested to inspect “all information regarding the expenditures” during the same time period.
3. By letter filed April 24, 2018, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide copies of the requested records. The complainant also alleged that the respondents do not have regular office or business hours and they do not maintain their public records in the office of the clerk of the political subdivision in which the respondents are located. At the hearing in this matter, the complainant requested the imposition of a civil penalty.
4. 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.

5. 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.

6. 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.”

7. 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.

8. It is found that upon receiving the complainant’s request, the respondent president, who is new to the position, undertook to compile the records the complainant requested.

9. It is found that the respondents ultimately provided print-outs of all activity on CD, savings, and checking accounts for the requested years. Copies of such records are contained in Exhibit 2, after-filed.

10. With respect to the complainant’s request for “all information regarding expenditures,” it is found that the statements for the checking account show many listings for “check” and “over counter check” and “external withdrawal.” It is found that the statements do not identify the payees of such checks and withdrawals.

11. The respondents claim that they maintain no other records responsive to the complainant’s request. In light of the many checks and other withdrawals drawn on the respondents’ accounts, however, it seems inaccurate that they would not maintain *any* other records concerning expenditures, such as ledgers, invoices, or other bookkeeping or accounting records. It is concluded, therefore, that the respondents violated §§1-210(a) and 1-212(a), G.S., by failing to provide such records.

12. With respect to the complainant’s allegations that the respondents failed to maintain regular office or business hours and failed to keep their public records in the office of the clerk of the political subdivision in which the respondents are located, §1-210(a), G.S., provides in relevant part: “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[.]”

13. It is found that the respondents maintain a regular office or place of business, which is the respondent corporation's clubhouse. It is found, however, that the clubhouse is kept locked and a member of the public needs to make an appointment to meet an officer of the respondent at the clubhouse to view any records. It is found, therefore, that such records are not maintained in an accessible place, within the meaning of §1-210(a), G.S.

14. It is found that the respondents are located in the political subdivision of the Town of East Hampton.

15. It is found that at the time of the hearing in this matter, the respondents did not keep their public records in the office of the Clerk of the Town of East Hampton.

16. It is concluded, therefore, that the respondents violated §1-210(a), G.S., as alleged, by failing to maintain their records in an accessible place and failing to maintain a regular office or place of business.

17. It is found that subsequent to the hearing, the respondents have taken steps to maintain their public records in the office of the Clerk of the Town of East Hampton, as referenced in Exhibit 1, after-filed.

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

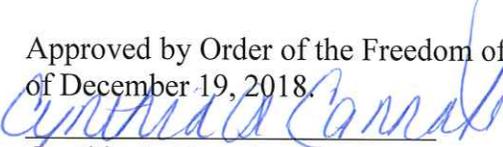
The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. The respondents shall forthwith maintain a regular office or place of business with a schedule of hours during which members of the public may come without appointment to request to view or receive a copy of the respondents' public records. In the alternative, the respondents shall maintain a copy of all of their public records in the office of the Clerk of the Town of East Hampton.

2. The respondents shall conduct a diligent search for records responsive to the complainant's request for all information concerning expenditures. Within 30 days of the notice of final decision in this matter, the respondents shall inform the complainant by letter of the results of their search and shall provide any records discovered during such search to the complainant free of charge.

3. Henceforth, the respondents shall strictly comply with §§1-210(a) and 1-212(a), G.S.

Approved by Order of the Freedom of Information Commission at its special meeting
of December 19, 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:

WILLIAM CHOMA, JR., , 19 Mohawk Trail, East Hampton, CT 06424

PRESIDENT, PRINCESS POCOTOPAUG CORPORATION; AND PRINCESS POCOTOPAUG CORPORATION, PO Box 41, East Hampton, CT 06424



Cynthia A. Cannata
Acting Clerk of the Commission