

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Adrienne Couture,

Complainant

against

Docket #FIC 2018-0423

Chairman, Planning and Zoning
Commission; Town of Shelton;
Planning and Zoning Commission,
Town of Shelton; and Town of
Shelton

Respondents

May 22, 2019

The above-captioned matter was heard as a contested case on October 5, 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. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. By complaint filed August 6, 2018, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by an ongoing failure to make minutes of their meetings available within seven business days of the meetings.
3. Section 1-225(a), G.S., provides in relevant part:

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

4. It is found that the respondents file their minutes with the town clerk, and also post the minutes on the town’s web site.

5. However, it is also found that the respondents, for meetings in February, April, May and July 2018, did not make their minutes available within seven days of their meeting.

6. It is concluded that the respondents violated §1-225(a), G.S., as alleged.

7. The complainant contended that the failure to make minutes available is an ongoing problem with the respondents, and that a complaint alleging this failure was made by the Valley Independent Sentinel in January 20, 2017.

8. The Commission takes administrative notice of its record and decision in Docket #FIC 2017-0040, The Valley Independent et al. v. Shelton Planning and Zoning Commission et al. (July 12, 2017). The final decision in that case found violations of §1-225(a), G.S., where the respondents failed to make minutes available for months after the meetings to which the minutes referred. The complainants requested the imposition of a civil penalty. Paragraph 7 of that decision provided:

After consideration of the entire record in this case, the Commission declines to consider the imposition of [a] civil penalty against the respondents. However, the Commission warns the respondents that in any future appeals where it is found that the respondents failed to comply with the requirement to make minutes and records of votes available in a timely manner, the Commission may be more inclined to impose such a civil penalty.

9. With regard to the imposition of a civil penalty, §1-206(b)(2), G.S., provides in relevant part:

[U]pon the finding that a denial of any right created by the Freedom of Information Act was without reasonable grounds and after the custodian or other official directly responsible for the denial has been given an opportunity to be heard at a hearing conducted in accordance with sections 4-176e to 4-184, inclusive, the commission may, in its discretion, impose against the custodian or other official a civil penalty of not less than twenty dollars nor more than one thousand dollars.

10. The complainant in this case, however, did not request the imposition of a civil penalty, and the record of this case does not support a finding that any particular individual was directly responsible for the respondents' failure to make minutes available in a timely manner.

11. Therefore, the Commission declines to consider the imposition of a civil penalty in this case.

12. However, the Commission also notes that it is entirely unpersuaded by the defenses raised by the respondents in this case—that they had difficulty finding someone to take minutes; that they “intended” to make the minutes timely available; that they have a high volume of meetings and lengthy minutes; that the respondent Chairman is new; that it was the complainant’s burden to prove that the minutes were *not* timely filed; and that the violations were “not that bad.”

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 §1-225(a), G.S.
2. The Commission in the strongest terms urges the respondents to remedy by whatever means necessary any delays in making minutes available. In any future similar case where civil penalties are requested and a responsible individual is clearly identified, the Commission will consider that its findings in this case may establish a predicate for the imposition of a civil penalty.

Approved by Order of the Freedom of Information Commission at its regular meeting of May 22, 2019.



Cynthia A. Cannata
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:

ADRIENNE COUTURE, 23 Great Oak Road, Shelton, CT 06484

**CHAIRMAN, PLANNING AND ZONING COMMISSION, TOWN OF SHELTON;
PLANNING AND ZONING COMMISSION, TOWN OF SHELTON; AND TOWN OF
SHELTON**, c/o Attorney Francis A. Teodosio, Teodosio Stanek, LLC, 375 Bridgeport
Avenue, Shelton, CT 06484



Cynthia A. Cannata
Acting Clerk of the Commission