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FREEDOM OF INFORMATION



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Friends of Ryan Park, Inc.,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2016-0248

Chairman, Mayor's Ryan Park Advisory Board,
City of Norwalk; Mayor's Ryan Park Advisory Board,
City of Norwalk; Norwalk Redevelopment Agency,
City of Norwalk; and City of Norwalk,
Respondent(s)

January 9, 2017

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, February 8, 2017**. 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 January 27, 2017**. 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 January 27, 2017**. **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 **fifteen (15) copies** be filed **ON OR BEFORE January 27, 2017**, 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: Attorney Daniel R. Cooper
Attorney M. Jeffrey Spahr

FIC# 2016-0248/Trans/wrbp/VDH/TAH/2017-01-09

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Friends of Ryan Park, Inc.,

Complainant

against

Docket #FIC 2016-0248

Chairman, Mayor's Ryan Park
Advisory Committee, City of
Norwalk; Mayor's Ryan Park
Advisory Committee, City of
Norwalk; Norwalk Redevelopment
Agency, City of Norwalk, and
City of Norwalk,

Respondents

October 21, 2016

The above-captioned matter was heard as a contested case on July 25, 2016, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. The Commission notes that the Notice of Hearing and Order to Show Cause indicated that one of the public agencies involved in this case was Mayor's Ryan Park Advisory Board. However, the correct name for the agency is the Mayor's Ryan Park Advisory Committee. The case captioned above has been amended to reflect such correction.

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 email dated February 19, 2016, the complainant requested that the respondents¹ provide it with copies of the following records: "all minutes from the Ryan Park Advisory Committee from January 1, 2015 to the present date (February 19, 2016)." (The "first request").

¹ In this decision, when the Commission refers to the respondents it is referring to the Chairman of the Mayor's Ryan Park Advisory Committee and the Mayor's Ryan Park Advisory Committee itself. While the Commission recognizes that the City of Norwalk and the Norwalk Redevelopment Agency are also party respondents in this case, when the Commission refers to either of these agencies it will do so by name.

3. It is found that, by email dated February 22, 2016, the respondents acknowledged the first request. It is further found that the respondents informed the complainant that the requested records were in the possession of the Norwalk Redevelopment Agency and, as such, they had forwarded the request to such agency for processing.

4. It is found that, by email dated February 23, 2016, the respondents indicated that the Norwalk Redevelopment Agency had copied the requested records. It is found that the respondents further indicated that the Norwalk Redevelopment Agency had forwarded 150 pages of responsive records to the Office of the Corporation Counsel and, upon the payment of \$75.00, the complainant could pick up the requested records at such office.

5. It is found that the complainant picked up the records on or around February 26, 2016 and paid the associated fee.

6. It is found that, by email dated March 15, 2016, the complainant requested that the respondents provide it with copies of the following records: 1) minutes from the Ryan Park Advisory Committee's meeting on October 16, 2014 and 2) "typed" minutes from the Ryan Park Advisory Committee's meeting on November 13, 2014. (The "second request").

7. It is found that, by email dated March 15, 2016, the respondents acknowledged the second request, provided some additional records, and indicated that it did not appear as though any additional responsive records existed.

8. By email dated March 24, 2016 and filed March 28, 2016, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information Act ("FOI Act") by failing to provide it with copies of the records described in paragraphs 2 and 6, above. The complainant further alleged that the respondents failed to make, keep and maintain meeting minutes in accordance with the FOI Act.

9. 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.

10. 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. . . . 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. . . . (Emphasis supplied).

11. 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.”

12. It is found that the requested records are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

13. The complainant contends that it did not receive all of the meeting minutes that it requested and that all the records that it did receive (and paid for) were not responsive to its request.

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

The meetings of all public agencies, except executive sessions, . . . 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. . . . Each public agency shall make, keep and maintain a record of the proceedings of its meetings.

15. It is found that the Mayor’s Ryan Park Advisory Committee was created by the Mayor of Norwalk to consider and develop plans for the redevelopment of Ryan Park. It is found that the Mayor’s Ryan Park Advisory Committee is comprised of both individuals and organizations. It is further found that one of the organizational members is the complainant.

16. It is found that, between October 16, 2014 and October 14, 2015, the Mayor's Ryan Park Advisory Committee held a total of ten public meetings. It is found that the meetings occurred on the following dates: October 16, 2014; November 13, 2014; February 11, 2015; March 24, 2015; April 22, 2015; May 19, 2015; August 19, 2015; September 10, 2015; September 22, 2015; and October 14, 2015.

17. It is found that the two requests set forth in paragraphs 2 and 6, above, effectively request all of the minutes for each of the ten meetings of the committee.

18. It is found that, in response to the complainant's first request, the respondents provided the complainant with 149² pages of records. However, it is found that, of these records, only 23 pages were responsive records—that is, only 23 pages of the records were meeting minutes. Specifically, it is found that, in response to the first request, the respondents provided the complainant with meeting minutes for five of the ten meetings, as follows: the November 13, 2014 minutes (it is found such meeting minutes were not responsive to the first request; but would be responsive to the second request³); the March 24, 2015 minutes; the August 19, 2015 minutes; the September 10, 2015 minutes; and the October 14, 2015 minutes.

19. It is found that the meeting minutes provided to the complainant are the only meeting minutes that exist for the Mayor's Ryan Park Committee.

20. While the meeting minutes that did exist for the Mayor's Ryan Park Committee were in the possession of the Norwalk Redevelopment Agency, it is found that it was the responsibility of the Mayor's Ryan Park Committee to create and maintain its meeting minutes either in its own office or place of business or in the office of the town clerk. See ¶ 10, above.

21. Accordingly, it is concluded that the respondents, other than the City of Norwalk and the Norwalk Redevelopment Agency, violated the provisions of §1-225(a), G.S., by failing to prepare meeting minutes, and further violated the provisions of §1-210(a), G.S., by failing to properly maintain the meeting minutes in either their regular place of business or in the town clerk's office.

22. The Commission notes that the respondents readily admitted at the hearing that the Mayor's Ryan Park Committee did not properly prepare meeting minutes for five of the committee's meetings as required by §1-225(a), G.S. The Commission also notes that the respondents offered to refund the complainant for the non-responsive records for which it was charged. In this regard, based on the complainant's testimony, it is found that the complainant paid \$75.00 for only 23 pages of responsive records. Accordingly, the

² While the respondents contended that it provided 150 pages of responsive records, the complainant testified that the package of records it received from the respondents contained only 149 pages of records. The Commission credits the complainant's testimony in this regard.


³ With regard to the second request for records referenced in paragraph 6, above, the complainant requested a "typed" version of the November 13, 2014 meeting minutes. It is found, however, that the respondents only maintain a handwritten version of such minutes.

complainant is due a refund of \$63.50.

23. Finally, while the complainant raised the matter of issuing a civil penalty against the respondents or ordering them to attend a FOI educational training session, it is found that such remedies are not merited based on the facts of this case. It is found that the violation in this case was the result of the Chairman of the Mayor's Ryan Park Committee assigning the task of taking minutes to someone who either did not understand that such task would be hers for each and every meeting, or who simply forgot to follow through with her commitment.

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 against the City of Norwalk and the Norwalk Redevelopment Agency.
2. The remaining respondents shall promptly refund the complainant \$63.50.
3. Henceforth, the respondents shall strictly comply with the requirements of §§1-210(a) and 1-225(a), G.S.


Valicia Dee Harmon
as Hearing Officer