



# FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission · 18-20 Trinity Street, Suite 100 · Hartford, CT 06106  
Toll free (CT only): (866)374-3617 Tel: (860)566-5682 Fax: (860)566-6474 · www.state.ct.us/foi/ · email: foi@po.state.ct.us

Patrick Egan,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2014-660

Chairman, Board of Fire Commissioners, City of New Haven;  
Board of Fire Commissioners, City of New Haven;  
and City of New Haven,

Respondent(s)

August 20, 2015

## 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, September 9, 2015**. 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 August 28, 2015**. 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 August 28, 2015**. **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 August 28, 2015**, 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: Lawrence C. Sgrignari, Esq.  
Kathleen Foster, Esq.  
Jarad M. Lucan, Esq.

2015-08-20/FIC# 2014-660/Trans/wrbp/VRP//TAH

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Patrick Egan,

Complainant

against

Docket #FIC 2014-660

Chairman, Board of Fire Commissioners,  
City of New Haven; Board of Fire  
Commissioners, City of New Haven; and  
City of New Haven,

Respondents

August 19, 2015

The above-captioned matter was heard as a contested case on August 17, 2015, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. This matter was consolidated for hearing with Docket #FIC 2014-726, Patrick Egan v. Chief, Fire Department, City of New Haven et al.

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 letter of complaint filed October 8, 2014, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by conducting an illegal meeting on September 30, 2014. The complainant alleged:
  - a. The Fire Chief and the respondent Board "undertook to engage in discussions relating to the performance of [the complainant] Mr. Egan;
  - b. "Such discussions were conducted both in open and executive session, and comments were permitted from individuals who appeared at the meeting;"
  - c. "The matters involving Mr. Egan were not properly included in a meeting agenda;"
  - d. "Mr. Egan was not properly notified that such discussions would take place and therefore [was] not afforded the opportunity to request open or executive session for such discussion;" and
  - e. "[T]here was no proper occasion for an executive session by the Commission."

3. It is found that the Fire Commission held a regular monthly meeting on September 30, 2014.

4. It is found that, during the meeting, following the conclusion of discussion of new business, the respondent Chairman, Rev. Eldren Morrison, brought to the respondent Board's attention letters he had received from the New Haven Board of Alderman and leaders of the Greater New Haven NAACP.

5. It is found that the Chairman then invited Dori Dumas, President of the Greater New Haven NAACP, to address the Board concerning the NAACP's criticisms of the investigation and firing of firefighter Aaron Brantley, and about discriminatory practices within the New Haven Fire Department, which was the subject of the NAACP's letter.

6. It is found that the complainant was an assistant New Haven Fire chief who had recently been placed on indefinite paid leave of absence, and that he had been accused of improperly handling the Brantley matter.

7. It is found that Ms. Dumas' remarks were critical of the handling of the Brantley matter, but did not address the complainant's role in that matter.

8. It is found that, following the remarks of Ms. Dumas, other members of the public raised concerns about the alleged discriminatory treatment of firefighters, and requested that the respondents conduct an investigation of these matters. At least one member of the public was critical of the complainant.

9. It is found that the respondent Chairman had invited comments from the public about these matters in order to provide necessary information to the Board.

10. It is also found, however, that the respondents themselves did not discuss the complainant or his performance as assistant fire chief. Specifically, it is found that at the first mention of the complainant by a member of the respondent Board, counsel for the Board advised that such a discussion was not proper, as the complainant was not present and had not been given notice that his performance might be discussed. Following that advice, there was no further discussion of the complainant by the respondents.

11. It is found, however, that there was discussion of the Brantley matter, including the reasons he had been terminated and whether he had taken an appeal from that termination decision, and whether there should be an independent investigation of alleged discriminatory practices.

12. It is found that neither the Brantley matter, nor complaints about discrimination, nor consideration of an independent investigation about either of those matters, were on, or added to, the agenda for the meeting.

13. It is found that the respondents then convened in executive session “to discuss pending legal matters.”

14. It is found that no identified legal matters were on the agenda for the respondents’ meeting.

15. It is also found that the complainant was not discussed in executive session.

16. Section 1-225(a), G.S., provides in relevant part: “The meetings of all public agencies, except executive sessions, as defined in subdivision (6) of section 1-200, shall be open to the public.”

17. Section 1-200(6), G.S., provides in relevant part:

“Executive sessions” means a meeting of a public agency at which the public is excluded for one or more of the following purposes: (A) Discussion concerning the appointment, employment, performance, evaluation, health or dismissal of a public officer or employee, *provided that such individual may require that discussion be held at an open meeting* ...; and (E) discussion of any matter which would result in the disclosure of public records or the information contained therein described in subsection (b) of section 1-210. [Emphasis added]

18. Section 1-225(c), G.S., provides in relevant part:

The agenda of the regular meetings of every public agency, except for the General Assembly, shall be available to the public and shall be filed, not less than twenty-four hours before the meetings to which they refer .... Upon the affirmative vote of two-thirds of the members of a public agency present and voting, any subsequent business not included in such filed agendas may be considered and acted upon at such meetings.

19. It is found that the respondent Fire Commission took up business relating to the Brantley matter and alleged discriminatory practices at its September 30, 2014 regular meeting without that matter being on the agenda, and without adding the matter to the agenda.

20. It is also found that the respondent Fire Commission took up business in executive session relating to a pending legal matter without placing that legal matter on the agenda and without describing it with sufficient specificity to put interested members of the public on notice as to what legal matter was being discussed.

21. It is concluded that the respondent Fire Commission violated §1-225(c), G.S.

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 the notice and agenda requirements contained in §§1-225, G.S.

A handwritten signature in black ink, appearing to read "Victor R. Perpetua", written over a horizontal line.

Victor R. Perpetua  
as Hearing Officer