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Town of Coventry

PR 16-36 Piskunov v. Town of Coventry – Violation

<http://www.riag.ri.gov/documents/apra/PR1636.pdf>

Complainant alleged that the Town violated the APRA when it failed to provide a reason for requesting a time extension to his February 13, 2016 APRA request. We found that the Town's failure to provide a reason why it was requesting a time extension violated R.I. Gen. Laws. § 38-2-3(e). Based on the specific facts presented, including the fact that the Complainant did not challenge the validity of the Town's request for an extension, we found no evidence of a willful and knowing, or reckless, violation.

PR 14-35 Jackson v. Town of Coventry – Violation

<http://www.riag.ri.gov/documents/opengov/JacksonvCoventry.pdf>

The Town denied Complainant's request for the resumes of the top five (5) individuals who applied for the position of Finance Director and the resume of the individual selected for that position, and the resumes of the top five (5) individuals who applied for the position of Director of Public Works and the resume of the individual selected for that position on the grounds that disclosure would constitute a "clearly unwarranted invasion of personal privacy." R.I. Gen. Laws § 38-2-2(4)(A)(I)(b). Rhode Island General Laws § 38-2-2(4)(A)(I)(b) requires the balancing of the public's interest in disclosure against the privacy interests. After reviewing the resumes in camera, and using federal case law for guidance, we concluded that disclosure of the resumes of the two successful candidates would not constitute a "clearly unwarranted invasion of personal privacy," but that disclosure of the unsuccessful applicant resumes would constitute a "clearly unwarranted invasion of personal privacy." Even the Complainant's correspondences recognized that the unsuccessful applicants maintained a privacy interest. As detailed herein, federal cases are replete with the conclusion that "on balance that disclosure of th[e] identity [of an unsuccessful applicant] would work a clearly unwarranted invasion of personal privacy." See *Holland v. Central Intelligence Agency*, 1992 WL 233820 (D.D.C. 1992). Therefore, we found that the Town violated the APRA when they denied Complainant access to the resumes of the successful applicants, but did not violate the APRA by denying access to the resumes of the unsuccessful applicants.

Town Council

OM 20-32 Castelli v. Coventry Town Council – Violation

http://www.riag.ri.gov/documents/OM2032Castelliv.CoventryTownCouncil_Redacted.pdf

The Complainant alleged that the Town Council violated the OMA by having an insufficiently specific agenda for its February 10, 2020 meeting. Specifically, the Complainant argued that the agenda items "President's Comments" and "District One Update by Councilwoman Dickson" did not sufficiently describe the nature of the business to be discussed. Based on the undisputed evidence, we concluded that matters related to Town business were discussed pursuant to each of these agenda items and that the agenda items did not provide notice of the substance of what would be discussed. Accordingly, we found that the Town Council violated the OMA. We did not find sufficient evidence of a willful or knowing violation and did not find a need for injunctive relief, as no action was taken pursuant to either agenda item. VIOLATION FOUND.

OM 20-14 Pierson v. Coventry Town Council – Violation

http://www.riag.ri.gov/documents/OM%2020-14%20Pierson%20v.%20Coventry%20Town%20Council_Redacted.pdf

Complainant alleged that the Council violated the OMA at its October 15, 2019 meeting when it improperly convened into executive session pursuant to R.I. Gen. Laws § 42-46-5(a)(1) to discuss the Town Manager search without discussing the job performance, character, or physical or mental health of any specific person(s). The Complainant also alleged the Council voted to increase the Town Manager salary offer outside of open session and failed to report the vote in open session. The Council acknowledged that no specific Town Manager candidate was discussed during the October 15 executive session. Our in camera review of the executive session minutes revealed that the Council reached a "consensus" regarding raising the advertised salary offer, which was not disclosed upon the Council's reconvening into open session. For these reasons, we found the Council violated the OMA. We did not find a willful or knowing violation at this time. We instructed the Council to unseal the relevant executive session minutes and disclose any votes taken. VIOLATION FOUND.

OM 13-15 Hevey v. Coventry Town Council - Violation

<http://www.riag.ri.gov/documents/om/Heveyv.Coventry.pdf>

The Office of Attorney General found that, in this specific instance, provisions of the Town Charter and the OMA did not conflict; thus, the Coventry Town Council violated the OMA when it failed to provide forty-eight (48) hours notice before its meeting held on April 9, 2013. See R.I. Gen. Laws Â§ 42-46-6(b). This Department did not, however, find a willful or knowing violation.

Coventry School Committee

OM14-18 Pierson v. Coventry School Committee - Violation

<http://www.riag.ri.gov/documents/om/PiersonvCoventrySchool.pdf>

The Coventry School Committee violated the OMA when it failed to timely provide minutes and a record of all votes taken pursuant to R.I. Gen. Laws Â§ 42-46-7(b). This Department found injunctive relief to be inappropriate since, based on the evidence presented, the untimely availability of the minutes was the result of a family illness and, the Complainant was provided with the minutes of all the meetings he requested.

Sewer Subcommittee

OM 19-34 Wilson v. Coventry Sewer Subcommittee – Violation

http://www.riag.ri.gov/documents/OM%2019-34%20Wilson%20v.%20Coventry%20Sewer%20Subcommittee_Redacted.pdf

The Complainant alleged that the Subcommittee violated the OMA when it discussed and took action on items not listed on its agendas for two separate meetings. The undisputed meeting minutes revealed that during the public comment section, certain discussions were initiated by Subcommittee members rather than by members of the public. By initiating discussion topics that were not noticed on the agenda during the public comment portion of the meetings, the Subcommittee violated the OMA. Based on the undisputed meeting minutes, we did not find sufficient evidence that the Subcommittee voted or took formal action on any of the unnoticed items discussed at either meeting. We concluded that there was no evidence that the violation was willful or knowing and that injunctive relief was not appropriate because no formal action was taken on the unnoticed discussion topics. VIOLATION FOUND

Coventry Charter Review Committee

OM 21-03 Drew v. Coventry – Violation

http://www.riag.ri.gov/documents/OM_21-03_Drew_v._Coventry_Charter_Review_Commission.pdf

The Complainant alleged that the Commission violated the OMA when the agenda for its Saturday, July 11, 2020 9:00am meeting was not posted until Thursday, July 9, 2020 9:08am, in violation of R.I. Gen. Laws § 42-46-6(b). The Commission conceded this point and, accordingly, we found a violation. The Complainant also alleged that the Commission violated the OMA at its July 11, 2020 meeting when it discussed a topic not properly listed on the agenda. Based upon the record before us, we determined that the Commission violated the OMA by engaging in an extended discussion on topics beyond what was noticed in the pertinent agenda item. We did not find injunctive relief appropriate as no action was taken on the agenda item in question, nor did we find evidence of a willful or knowing violation. VIOLATION FOUND

OM 17-01 Novak v. Coventry Charter Review Commission - Violation

<http://www.riag.ri.gov/documents/om/OM1701.pdf>

The OMA requires that the "unofficial minutes shall be available to the public at the office of the public body, within thirty-five (35) days of the meeting or at the next regularly scheduled meeting, whichever is earlier." See R.I. Gen. Laws § 42-46-7(b)(1). The Coventry Charter Review Committee ("CCRC") violated the OMA when the October 27, 2015 meeting minutes were not made available to the Complainant when he visited the Coventry Town Hall on January 8, 2016. We concluded that the Complainant did not demonstrate that he was aggrieved as a result of his allegation concerning improper notice for the January 7, 2016 meeting as the evidence revealed he attended the meeting at issue. See R.I. Gen. Laws § 42-46-8(a).

Coventry Board of Canvassers

OM 20-46 Pierson v. Coventry Boards – Violation

<http://www.riag.ri.gov/documents/OM2046Piersonv.CoventryBoards.pdf>

Complainant alleges that the Board of Canvassers violated the OMA and the Governor's Executive Order when it held an in-person meeting on July 13, 2020 without providing adequate alternative means of public access. Likewise, the Complainant alleges the Municipal and Police Pension Boards held joint, in-person meetings on June 1, 2020 and July 27, 2020 without providing adequate alternative means of public access in accordance with the Governor's Executive Order. The Complainant also alleges that the Municipal and Police Pension Boards violated the OMA when the minutes for the June 1, 2020 and July 27, 2020 joint meetings failed to list the members of the Boards who were present or absent. The Board of Canvassers, as well as the Municipal and Police Pension Boards, concede that they did not provide adequate, alternative means of public access to their respective June 1, 2020, July 13, 2020, and July 27, 2020 meetings as required by the pertinent Executive Order. Therefore, we found that the Boards did not comply with the Governor's Executive Orders modifying the OMA. Additionally, the Municipal and Police Pension Boards further concede that the minutes for their June 1, 2020 and July 27, 2020 joint meetings failed to include a record of the Board members present or absent. Accordingly, we found that the Municipal and Police Pension violated the OMA in this regard. Based on the record before us, we did not find injunctive relief to be appropriate in connection with the July 13, 2020 Board of Canvassers meeting. We directed the Municipal and Police Pension Boards to take measures to identify and disclose the members of the Municipal and Police Pension Boards who were present or absent at the June 1, 2020 and July 27, 2020 meetings. We did not find evidence of a willful or knowing violation. VIOLATION FOUND

OM 17-09 Pierson v. Coventry Board of Canvassers and Registration - Violation

<http://www.riag.ri.gov/documents/om/OM1709.pdf>

Complainant alleged that the BOC violated the OMA when it failed to timely post its agenda for its September 15, 2016 meeting. While the Complainant attended the meeting, the evidence indicated that the late notice left the Complainant little time to arrange his schedule and that he missed a good portion of the meeting's substance. Accordingly, we found that the Complainant was aggrieved. See R.I. Gen. Laws § 42-46-8(a). Turning to the merits, we found that the drawing of names to determine the ballot order was an "action" over which the BOC has "supervision, control, jurisdiction, or advisory power[,]" and accordingly that a BOC "meeting" was convened on September

15, 2016. See R.I. Gen. Laws § 42-46-2(1). Although we found that the BOC violated the OMA, we noted that the BOC's attempts to rectify its violation by giving notice in writing to each of the candidates who might have been affected by the meeting, including the Complainant, militated against a finding that the BOC willfully or knowingly violated the OMA.

PR 17-12 Pierson v. Coventry Board of Canvassers - Violation

<http://www.riag.ri.gov/documents/apra/PR1712.pdf>

The Board of Canvassers violated the APRA when it failed to respond to an APRA request within ten (10) business days. This Department rejected the Board of Canvassers chief argument that the APRA request sought answers to questions or interrogatories, and therefore, fell outside the APRA. The Board of Canvassers was directed to respond to the APRA request.

Western Coventry Fire District

OM 20-08 Novak v. Western Coventry Fire District – Violation

http://www.riag.ri.gov/documents/OM%2020-08%20Novak%20v.%20Western%20Coventry%20Fire%20District_Redacted.pdf

The Complainant alleged that the Fire District failed to post meeting notices that included the date the notice was posted for three meetings, and untimely filed meeting minutes for one meeting. The Fire District did not contest these allegations and we found that these actions violated the OMA. The Complainant also alleged that the Fire District violated the OMA when it voted to amend its agenda and then voted on the added item. Our review of the evidence indicated that the Fire District permissibly added an item to the agenda for discussion purposes only under R.I. Gen. Laws § 42-46-6(b). Although the Fire District subsequently voted on a different agenda item, we found no evidence that the Fire District voted on the item it had added to the agenda. On that allegation, we found no violation. Based on the totality of the circumstances, we did not find sufficient evidence of a willful or knowing violation, or that injunctive relief was appropriate. VIOLATION FOUND.

OM 19-29 Novak v. Western Coventry Fire District – Violation

http://www.riag.ri.gov/documents/NovakvWesternCoventryFireDistrict_Redacted.pdf

The Complainant alleged that the Western Coventry Fire District violated the OMA when an executive session agenda item for its April 18, 2019 meeting failed to sufficiently specify the nature of the business to be discussed and when the April 18, 2019 meeting minutes related to that item failed to include a citation to the relevant statutory subdivision for entering the executive session and failed to include a statement specifying the nature of the business to be discussed. The Fire District conceded these violations. Accordingly, we found that the Fire District violated the OMA. Based on the totality of the circumstances, we did not find injunctive relief appropriate, nor did we find sufficient evidence of a willful or knowing violation. VIOLATION FOUND

PR 17-34 Novak v. Western Coventry Fire District – APRA Violation

<http://www.riag.ri.gov/documents/om/OM1722.pdf>

The Complainant alleged the Fire District untimely filed some of its official and unofficial minutes on the Secretary of State's website. The OMA provides that "[a]ny citizen or entity of the state who is aggrieved as a result of violations of the provisions of this chapter may file a complaint with the attorney general." R.I. Gen. Laws § 42-46-8(a); see also *Graziano v. Rhode Island State Lottery Commission*, 810 A.2d 215 (R.I. 2002). Here, pursuant to R.I. Gen. Laws § 42-46-8(a), and the standard established in *Graziano*, this Department found that the Complainant was not an "aggrieved" party and therefore had no standing to bring his complaint. See *Curt-Hoard v. Woonsocket School Board*, OM 14-20; *Ayotte v. Rhode Island Commission on the Deaf and Hard of Hearing*, OM 17-12. As such, we found no OMA violation. Since the Complainant was in possession of the requested documents, we need only examine whether the alleged failure to provide such documents represented a willful and knowing, or reckless violation. We responded in the negative.

OM 17-02 Novak v. Western Coventry Fire District - Violation

<http://www.riag.ri.gov/documents/om/OM1702.pdf>

The Fire District violated the OMA when it untimely filed a number of its unofficial and official and/or approved minutes on the Secretary of State's website for a number of its Board of Directors and Standard Administrative Procedures meetings. See R.I. Gen. Laws § 42-46-7(b)(2) and (d). While its failure to do so violated the OMA, we did not find a willful or knowing violation, considering the totality of the circumstances. One of the considerations was that, unlike other public bodies who may extend the time to file their unofficial minutes, a fire district may not extend the timeframe for filing its unofficial minutes. See R.I. Gen. Laws § 42-46-7(b)(2).

OM 15-07 Novak v. Western Coventry Fire District - Violation

<http://riag.ri.gov/documents/om/NovakvWCoventryFD.pdf>

The Western Coventry Fire District ("Fire District") violated the OMA when it untimely posted on the Secretary of State's website approved minutes of seven (7) of its meetings. The Fire District also violated the OMA when the evidence revealed that it failed to post official and/or approved minutes for two (2) other meetings. Rhode Island General Laws Â§ 42-46-7(d) requires "all volunteer fire companies, associations, fire district companies, or any other organization currently engaged in the mission of extinguishing fires and preventing fire hazards, whether it is incorporated or not, and whether it is a paid department or not" to "keep official and/or approved minutes of all meetings of the body and shall file a copy of the minutes of all open meetings with the secretary of state for inspection by the public within thirty-five (35) days of the meeting." R.I. Gen. Laws Â§ 42-46-7(d).

OM 15-03 Novak v. Western Coventry Fire District - Violation

<http://riag.ri.gov/documents/om/NovakvWesternCoventryFD.pdf>

The Complainant alleged the Western Coventry Fire District ("Fire District") violated the OMA when it failed to timely post its meeting minutes on the Secretary of State's website for eleven (11) of its meetings. See R.I. Gen. Laws Â§ 42-46-7(b)(2). On June 11, 2014, this Department issued Novak v. Western Coventry Fire District, OM 14-24, wherein this Department found that the Fire District violated the OMA by failing to timely post its unofficial minutes on the Secretary of State's website for seven (7) meetings. Notwithstanding this actual notice, previously, by letter dated November 4, 2013, the Attorney General advised all Fire Districts that the OMA had been amended, effective July 2013, to include R.I. Gen. Laws Â§ 42-46-7(b)(2)'s posting requirement â€œ the precise requirement that we find the Fire District has violated. The Fire District shall have ten (10) business days to respond to this Department's concern that the violations are "willful or knowing." A supplemental finding will be issued.

OM 14-24 Novak v. Western Coventry Fire District - Violation

<http://www.riag.ri.gov/documents/om/NovakvWCoventry.pdf>

The Fire District violated the OMA by failing to timely post its minutes on the secretary of state's website for seven (7) meetings. Rhode Island General Laws Â§ 42-46-7(b)(2) states that "all volunteer fire companies, associations, fire district companies, or any other organization currently engaged in the mission of extinguishing fires and preventing fire hazards, whether it is incorporated or not, and whether it is a paid department or not, shall post unofficial minutes of their meetings within twenty-one (21) days of the meeting, but not later than seven (7) days prior to the next regularly scheduled meeting, whichever is earlier, on the secretary of state's website." R.I. Gen. Laws Â§ 42-46-7(b)(2).

OM 14-06/PR 14-06 Novak v. Western Coventry Fire District - Violation

<http://www.riag.ri.gov/documents/om/NovakvWCFD.pdf>

The Fire District violated the OMA when its 2013 annual notice did not include information required under R.I. Gen. Laws Â§ 42-46-6(a). The Fire District did not violate the OMA when its agenda topics for the September 16 and 19, 2013 meetings adequately informed the public of the nature of the business to be discussed. The Fire District violated the OMA with respect to the September 19, 2013 agenda when it incorrectly listed the date the notice was posted as August 17, 2013, instead of September 17, 2013. The Fire District violated the APRA by failing to have a copy of its APRA procedures on its website. See R.I. Gen. Laws Â§ 38-2-3(d).

Central Coventry Fire District

PR 18-11 Pierson v. Central Coventry Fire District – Violation

<http://www.riag.ri.gov/documents/apra/PR1811.pdf>

The Central Coventry Fire District violated the APRA when it failed to respond to the Complainant's APRA request dated September 18, 2017. The evidence revealed that the Complainant made an APRA request on September 15, 2017, which the Fire District responded to on September 18, 2017 at 4:00 PM. The Complainant made another APRA request for a similarly-related document on September 18, 2017 at 9:14 PM to which the Fire District failed to respond. This Department directed the Fire District to respond to the Complainant's September 18, 2017 APRA request within ten (10) business days of this finding in a manner consistent with this finding and the APRA.

OM 17-11 Dion v. Central Coventry Fire District - Violation

<http://www.riag.ri.gov/documents/om/OM1711.pdf>

The Central Coventry Fire District ("Fire District") violated the OMA when it untimely filed three (3) of its meetings minutes on the Secretary of State's website. See R.I. Gen. Laws § 42-46-7(b)(2). With respect to the Complainant's allegation that the minutes for two (2) of its meetings did not reflect the votes of the members of the Fire District, we found no violation. Our review of the evidence presented revealed no meetings were held on those two (2) dates.

OM 14-09 Gorman v. Central Coventry Fire District, Board of Directors Fay v. Central Coventry Fire District, Board of Directors

<http://www.riag.ri.gov/documents/om/GormanFayvCCFD.pdf>

Since both complaints were submitted against the Central Coventry Fire District Board of Directors ("Board"), ("CCFD"), or ("Fire District"), and since both complaints contained similar allegations, this Department addressed both complaints in a single finding. Our investigation began by addressing the Board's argument that they are not a public entity, therefore, not subject to the OMA. Since the Board provided no factual or legal support for this argument, and since this argument conflicted with *Emergency Hiring Counsel v. Solas*, 774 A.2d 820 (R.I. 2001), this Department rejected the Board's argument that it is not a "public body." Next, this Department addressed Mr. Gorman's eight (8) allegations and Mr. Fay's nine (9) allegations and found that the CCFD violated

the OMA: 1) when it failed to timely post meeting minutes on the Secretary of State's website, 2) when the Board failed to state in open session the reason for holding a closed session meeting by citing to the subdivision of R.I. Gen. Laws Â§ 42-46-5(a), and 3) when the Board discussed matters, in closed session, that did not fall within R.I. Gen. Laws Â§ 42-46-5(a)(2). In addition to the violations listed above, this Department identified certain matters as possible willful or knowing violations and directed the Board to provide a substantive response addressing, in a non-conclusionary manner, the willful or knowing concerns that expressed in light of the willful or knowing standard identified by the Supreme Court and this Department.

Coventry Fire District

PR 17-55 Hartley v. Coventry Fire District – Violation

<http://www.riag.ri.gov/documents/apra/PR1755.pdf>

The Complainant alleged that the Fire District violated the APRA when it withheld a tape recording of a public meeting pursuant to R.I. Gen. Laws § 38-2-2(4)(K) as a "draft[.]" Because the tape recording contained no mental impressions and did not otherwise fall within Exemption (K), we found that the recording did not constitute a "draft[.]" We also did not find the Fire District's policy arguments persuasive. Accordingly, we found that the Fire District violated the APRA when it failed to release the tape recording. However, we did not find a willful and knowing, or reckless violation. The Fire District was directed to disclose the tape recording.