



**WALLER
SMITH &
PALMER^{PC}**
Attorneys at Law

REC'D & FILED

MAR 08 2019

Freedom of Information Comm.
BY 

EDWARD B. O'CONNELL
TRACY M. COLLINS*
PHILIP M. JOHNSTONE+*
CHARLES C. ANDERSON
KERIN M. WOODS+
ELLEN C. BROWN*
MARK S. ZAMARKA
CATHERINE A. MARRION
TIMOTHY D. BLEASDALE
RACHAEL M. GAUDIO+*
JONATHAN R. AUBIN

March 6, 2019

Clerk of the Commission
Freedom of Information Commission
18-20 Trinity Street, Suite 100
Hartford, CT 06106

OF COUNSEL
ROBERT W. MARRION
ROBERT P. ANDERSON, JR.
FREDERICK B. GAHAGAN

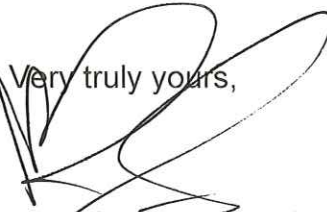
**Re: Town of East Lyme, East Lyme Board of Education
v. David Godbout**

+ ALSO ADMITTED IN RI
*ALSO ADMITTED IN MA

Dear Clerk of the Commission:

On behalf of the Petitioners, please see the enclosed Petition for Relief from Vexatious Requester Pursuant to General Statutes §1-206(b)(5).

Should you have any comments or questions, please do not hesitate to contact me. Thank you.

Very truly yours,


Mark S. Zamarka, of
Waller, Smith & Palmer, P.C.

MSZ/rdt
Enclosure
Cc: David Godbout

REC'D & FILED

MAR 08 2019

Freedom of Information Commission
BY *[Signature]*

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

TOWN OF EAST LYME,
EAST LYME BOARD OF EDUCATION

Petitioners

Docket

vs.

DAVID GODBOUT

Respondent

March 6, 2019

**PETITION FOR RELIEF FROM VEXATIOUS REQUESTER
PURSUANT TO GENERAL STATUTES §1-206(b)(5)**

Pursuant to General Statutes §1-206(b)(5) the Town of East Lyme ("Town") its departments, boards and commissions, and the East Lyme Board of Education ("Board"), hereby petition for relief from a vexatious requester. In support of its certified petition, the Petitioners state as follows:

1. The petitioners are the Town of East Lyme, a Connecticut municipality and the East Lyme Board of Education, both of which are public agencies for purposes of the Freedom of Information Act ("FOIA" or the "Act").
2. The respondent David Godbout ("Godbout") is a resident of the Town.

WALLER, SMITH &
PALMER, P.C.
Counselors at Law
52 Eugene O'Neill Drive
P.O. Box 88
New London, CT 06320
Tel. No. (860) 442-0367
Juris Number 65975

3. In 2016, the Town requested that the Freedom of Information Commission (FOIC" or the "Commission") not schedule formal hearings in Godbout's numerous pending complaints against the Town and its departments, boards and commissions.
4. On September 6, 2016, based on the Town's request, the Commission issued, on 12 of Godbout's pending complaints against the Town, Notices of Decision Not to Schedule Hearing. (Exhibit A – representative notice). The Notices stated that:
 - a. From 2011 – September, 2016, Godbout filed 437 complaints with the Commission;
 - b. As of September 6, 2016, Godbout filed 40 complaints against the Town, and
 - c. Godbout had a history of filing abusive complaints against the Town.
5. After the Notices were issued Godbout withdrew all pending complaints against the Town.
6. Throughout 2016 and 2017, Godbout continued to inundate the Town and the Board with hundreds of FOIA requests.

WALLER, SMITH &
PALMER, P.C.
Counselors at Law
52 Eugene O'Neill Drive
P.O. Box 88
New London, CT 06320
Tel. No. (860) 442-0367
Juris Number 65975

7. To date in 2018 alone, Godbout has filed over 90 written FOIA requests, multiple verbal requests, and engaged in abusive confrontations with the petitioner's employees.
8. The written and verbal requests include, but are not limited to:
 - a. December 19, 2017: request to the Town Clerk's office to inspect records stored on the private property of the retired, former Town Clerk (Exhibit B);
 - b. January 16, 2018: request to the Town Land Use Department to inspect an email (and metadata) allegedly sent from the department copy machine (Exhibit C);
 - c. February 1, 2018: request for personal emails, i.e. not public records, of all members of the East Lyme Police Department (Exhibit D);
 - d. February 7, 2018: request to the Police Chief to inspect personal devices, and records related thereto, from November 1, 2017 – present, of an East Lyme Police Sergeant (Exhibit E);
 - e. March 3, 2018: request to Public Safety Director and Police Chief requesting six different types of information and records, including records regarding copying charges (Godbout had been advised

repeatedly in the past that the Town follows the statutory guidelines regarding copying charges) (Exhibit F);

- f. March 7, 2018: requests to
 - a. the Assessor's office for all emails and metadata from January 1, 2017 – present, a span of 14 months (Exhibit G),
 - b. the Land Use Department for all emails from January 1, 2018 – present (Exhibit H), and
 - c. the Tax Collector's office for all emails from January 1, 2018 – present, with no attempt to limit the scope of any of the requests;
- g. March 15, 2018: verbal request to the Assessor's office for all emails from that date to as far back as the Assessor felt was reasonable (Exhibit I);
- h. March 15, 2018: verbal request to the Zoning Commission during the public delegation portion of its meeting, for all emails from January 1, 2018 – present from all Commission members (Exhibit J);
- i. June 29, 2018: request for all cell phone records of the East Lyme Police Department (Exhibit K);

- j. August 12, 2018: request for records related to the copy machine in the Town Clerk's office;
- k. August 25, 2018: request to the Police and Fire Departments for records from January 1, 2017 – present (i.e. 20 months) regarding
 - a. all vandalism events,
 - b. invoices relating to surveillance cameras,
 - c. video from existing surveillance cameras, and
 - d. all records sent to or obtained from the East Lyme Public Trust Foundation, which Godbout specifically noted was not limited by time or subject matter (Exhibit L);
- l. October 2017 and June 2018: request for deposition transcripts in a lawsuit regarding an alleged sexual assault involving minors, in which the names of the parents and minors were sealed (Exhibit M);
- m. November 21, 2018: Godbout appeared at the offices of Waller, Smith & Palmer, P.C., whose firm serves as counsel to the Town. Godbout made a verbal request for billing invoices related to a small claims matter that he filed against individual members of the Town Board of Assessment Appeals, and which is pending in the New London

Superior Court. Godbout was supplied with responsive documents and advised in writing that he is not welcome at the offices of the undersigned (Exhibit N).

9. The foregoing examples demonstrate that Godbout is a vexatious, serial FOIA filer, whose requests are routinely unlimited and/or unreasonable in scope or content.
10. Godbout's voluminous requests, and the number of documents sought therein, disrupts the orderly conduct of the Town's business.
11. Godbout's conduct related to his FOIA requests constitutes an abuse of the right to access information, and/or an interference with the operation of the Town, as provided for in §1-206(b)(5)(E).
12. Examples of Godbout's abusive conduct include, but are not limited to:
 - a. February 4, 2018: Godbout went to the offices of the Town's public works department, and lectured the Municipal Utility Engineer on FOI procedure when the information he was provided was allegedly in the wrong format;
 - b. March 1, 2018: the Assessor's office called the East Lyme Police Department when Godbout refused to leave after repeated requests

and after being told that his conduct made the female employees uncomfortable;

- c. March 15, 2018: Godbout went to Town Hall with a video camera. He recorded Town employees while they were working at their desks and also asked the employees questions while on camera. The First Selectman asked Godbout to turn off the camera or leave; Godbout refused and the East Lyme Police were again called to escort him from the premises;
- d. June 6, 2018: Godbout went to the First Selectman's office, again with a video camera, and recorded his interaction with the Selectman's administrative assistant;
- e. June 28, 2018: Godbout went to East Lyme High School to file a written request for information on transgender student policy (Exhibit O);
- f. July 2, 2018: Godbout again went to the high school to request information regarding the school's Facebook account (Exhibit O);

- g. July 6, 2018: Godbout went to the high school and interacted with staff regarding the school's Facebook account and alleged limitations on free speech (Exhibit O);
- h. July 13, 2018: Godbout went to the office of the Board of Education (which is located on the grounds of Flanders Elementary School) to file a request for the Superintendent's expense account and was escorted from the premises due to safety concerns (Exhibit O);
- i. July 16, 2018: Godbout was denied access to Board office/Flanders Elementary due to safety concerns (Exhibit O);
- j. July 16, 2018: during the public comment portion of the Board of Education meeting, Godbout requested the school district's transgender policy, and displayed in public a picture of a transgender student. The Chair asked Godbout several times to refrain from further comment. Godbout became agitated and was asked to leave by the First Selectman who was present at the meeting. Due to safety concerns the police were called (Exhibit O);
- k. July 17, 2018: Godbout again appeared at the District offices/Flanders Elementary to submit a records request. At that time he blocked the

entrance and would not allow the Flanders Elementary (female) principal into the building. Due to safety concerns the police were called. Godbout was later informed by the Superintendent that in the future he will not be seen without first scheduling an appointment (Exhibit O);

- i. August 14, 2018: Godbout hand delivered an FOI request to the home of the Board of Education Chair (Exhibit O);
- m. September 21, 2018: the Board of Education administrative assistant notified by email a man identifying himself as Phillip Miller that the documents Miller requested were ready and asked Miller to contact the Finance Director to view them at the Board's offices (Exhibit O);
- n. September 27, 2018: a man identifying himself as Phillip Miller appeared at the Board of Education offices and stated that he had an appointment with the Finance Director regarding his FOIA request. The man was in fact David Godbout, and he was denied entrance. The Campus Safety Director filed a report and the police were notified (Exhibit O);

- o. October 4, 2018: Godbout appeared at the Board of Education office and requested to see the Finance Director and Superintendent. He was denied access because he did not have an appointment. Only after several requests did he leave the premises (Exhibit O);
- p. December 2018: despite being advised repeatedly that the Town complies with FOIA regarding copying fees, Godbout continues to harass Town employees. Godbout has gone so far as to challenge the First Selectman to a debate on this issue (Exhibit P).
- q. December 26, 2018: Godbout appeared at East Lyme Town Hall and requested a waiver of fees from the First Selectman's female administrative assistant. Godbout was told that he would have to speak with the First Selectman, who was not there at that time. Godbout became enraged and acted in a threatening manner and shouted obscenities at the assistant. The assistant hit a panic button to alert the East Lyme Police. (Exhibit Q). Godbout's disturbance was so loud that Employees in the East Lyme Tax Collector's office also contacted the police. Godbout was later arrested for disturbing the peace.

13. Godbout is a vexatious requester, both in his written and verbal requests, as well as his conduct related to those requests. His requests and conduct serve to harass and disrupt the orderly conduct of Town business. He is the very type of requester that §1-206(b)(5) was enacted to protect against.

WHEREFORE, pursuant to the provisions of CGS §1-206(b)(5), the Petitioners request that the Commission provide appropriate relief commensurate with the above vexatious conduct, including an order that the Town and its departments, boards and commissions, including the East Lyme Board of Education, need not comply with future requests from Godbout for a period of one year, together with such other and further relief as the Commission deems appropriate.

THE PETITIONERS
TOWN OF EAST LYME
EAST LYME BOARD OF EDUCATION

By 

Mark S. Zamarka, Esq., of
Waller, Smith & Palmer, P.C.
52 Eugene O'Neill Drive
New London, CT 06320
Its Attorneys

WALLER, SMITH &
PALMER, P.C.
Counselors at Law
52 Eugene O'Neill Drive
P.O. Box 88
New London, CT 06320
Tel. No. (860) 442-0367
Juris Number 65975

VERIFICATION

I have read the foregoing petition. I swear under the penalty regarding false statements pursuant to General Statutes §52a-157b that the contents and allegations therein are true to the best of my knowledge, information and belief.



Mark C. Nickerson
First Selectman
Town of East Lyme

STATE OF CONNECTICUT)
) ss. East Lyme March 4, 2019
COUNTY OF NEW LONDON)


Personally appeared, Mark C. Nickerson, First Selectman of the Town of East Lyme and made oath to the truth of the matters contained in the complaint therein, before me.


Commissioner of Superior Court/
Notary Public

SANDRA ANDERSON
NOTARY PUBLIC
MY COMMISSION EXPIRES 4/30/20

VERIFICATION

I have read the foregoing petition. I swear under the penalty regarding false statements pursuant to General Statutes §52a-157b that the contents and allegations therein are true to the best of my knowledge, information and belief.



Jeffery R. Newton
Superintendent of Schools
Town of East Lyme

STATE OF CONNECTICUT)
) ss. East Lyme March
COUNTY OF NEW LONDON) February 4, 2019

Personally appeared, Jeffery R. Newton, Superintendent of Schools of the Town of East Lyme and made oath to the truth of the matters contained in the complaint therein, before me.



Commissioner of Superior Court/
Notary Public

SANDRA ANDERSON
NOTARY PUBLIC
MY COMMISSION EXPIRES 4/30/20



**FREEDOM OF INFORMATION COMMISSION
STATE OF CONNECTICUT**

18-20 Trinity Street, Suite 100
Hartford, Connecticut 06106



In the Matter of a Complaint by

David Godbout,

Complainant

against

Docket # FIC 2016-0218

Chair, Parks and Recreation
Commission, Town of East
Lyme; Parks and Recreation
Commission, Town of East
Lyme; and Town of East Lyme,

Respondents

September 16, 2016

NOTICE OF DECISION NOT TO SCHEDULE HEARING

The above-captioned appeal shall not be scheduled for hearing without leave of the Commission on the ground that there is reason to believe that such appeal "would constitute an abuse of the Commission's administrative process," pursuant to §1-206(b)(2)(C) of the Connecticut General Statutes.

The Executive Director is not seeking to schedule a hearing in this matter, but rather is asking the Commission to affirm her decision not to schedule a hearing. The Executive Director's decision not to schedule was based on the following factors, pursuant to §1-206(b)(3) of the Connecticut General Statutes:

A. Since 2011, the complainant has filed with the Commission 437 complaints, on an escalating scale (representing approximately 10% to 20% of the Commission's caseload). See Appendix A for listing of complaints. The complainant's voluminous number of complaints, unprecedented in the Commission's four decade history, has overburdened the Commission. Such complaints are often duplicative and/or frivolous. The complainant's underlying requests are frequently for massive amounts of records from public agencies. The complainant has made it known and clear that what he seeks is the elimination of the Commission. In addition, the complainant has stated several times in open Court that he believes that the Commission has decided not to hear any of his cases; yet, he continues to file repetitive complaints. The complainant filed 200 complaints in 2014, fully 21 percent of the Commission's docket for the year. Similarly, in 2015, the complainant filed 104 complaints. In 2016 thus far, the

complainant has filed 31 complaints. See David Godbout v. Freedom of Information Commission, CV-15-5017046S, (Memorandum of Decision) (August 9, 2016) (Schuman, J.). (court concluded that the complainant's filing of hundreds of complaints is an abuse of the Commission's administrative process); Bradshaw Smith v. Freedom of Information Commission, CV-16-5017349-S (Memorandum of Decision) (July 19, 2016) (Schuman, J.) (the filing of a large volume of complaints – the example in the underlying case was 32 over a two year period - constitutes an abuse of the Commission's administrative process). Accordingly, the Executive Director has reason to believe that the complainant is filing his complaints not to pursue them but rather to overwhelm and monopolize the Commission. The overabundance of the complainant's complaints and attendant motions and filings is tantamount to harassment and clearly an abuse of the Commission's administrative process.

B. The Commission's resources are diminished due to budget cuts and consolidation with other state agencies. Nevertheless, the Commission has already expended an inordinate amount of time and resources adjudicating a multitude of previous cases filed by the complainant. In 2013, 2014, 2015, and 2016, the Commission's caseload has been running at a record pace, and hundreds of complainants other than Mr. Godbout, who have not yet been before the Commission, await hearings.

C. To date, the complainant has filed 40 complaints against the town of East Lyme. Thus far, the Commission has concluded that scheduling two of those matters would constitute an abuse of the Commission's administrative process. Additionally, the Executive Director has issued a notice not to schedule a hearing in another 18 complaints filed by the complainant against East Lyme only to have the complainant withdraw such complaints immediately or shortly before the Commission was due to consider such matters. Accordingly, the complainant has a history of filing abusive complaints against the town of East Lyme. See Appendix A for listing of complaints.

D. The Superior Court has upheld the Commission's decision not to schedule hearings in earlier complaints filed by the complainant, concluding that conducting hearings in such matters would constitute an abuse of the Commission's administrative process. See David Godbout v. Freedom of Information Commission, CV-15-5017046S, (Memorandum of Decision) (August 9, 2016) (Schuman, J.); David Godbout v. Freedom of Information Commission, CV-14-5016057-S (Memorandum of Decision) (June 18, 2015) (Schuman, J.).

E. In Docket # FIC 2014-671, a previous complaint, the complainant filed a "Motion for Hearing" on June 15, 2015. See Appendix B. In such motion, the complainant takes issue with the Executive Director's competence and requests that she be terminated, makes arguments with respect to cases other than Docket #FIC 2014-671, misrepresents judicial rulings, and exhibits his lack of understanding of the FOI Act meetings provisions. That motion, in and of itself, is abusive of the Commission's administrative process.

F. In a separate complaint against the Commission, Docket #FIC 2014-498, David Godbout v. State of Connecticut, Office of Government Accountability, Freedom of Information Commission, the complainant seeks as relief the resignations of the FOI Commissioners, and the termination of FOIC staff.

G. Previously, the complainant filed a complaint against the Department of Motor Vehicles (DMV), Docket #FIC 2014-258, regarding the interpretation of §14-10, G.S. In that matter, the Commission conducted a full evidentiary hearing wherein the DMV brought counsel and witnesses, and expended time and effort in defending against the complainant's complaint. Subsequently, the Hearing Officer issued a proposed decision which recommended dismissing that complaint on the merits. The proposed decision was mailed to the parties on Friday, March 27, 2015. On Tuesday, March 31, 2015, the complainant withdrew the complaint in Docket #FIC 2014-258, stating in his withdrawal that he doesn't agree with anything any employee of the Commission has stated or written with regard to any of his complaints, and that he doesn't need to give a reason for his withdrawal. On that same day, March 31, 2015, the complainant requested from the DMV similar records.

II. In the previous case, Docket #FIC 2014-258, the Commission ultimately issued a Final Decision, dismissing the case, *with prejudice*, based on the complainant's withdrawal. Notice of that final decision was mailed to the complainant on April 13, 2015. Two days later, the complainant filed an almost duplicative complaint against the DMV. This is not the first time that the complainant has received an unfavorable preliminary decision from the Commission, and then withdrawn his complaint, only to attempt to resurrect the issue by filing a subsequent complaint. The complainant is abusing the Commission's administrative process. This fact pattern should serve as an example of how the complainant conducts himself when he is given a hearing by the Commission.

I. This matter is one of seven complaints that the complainant filed with the Commission on the same day.

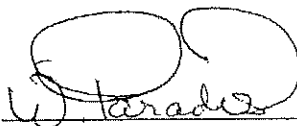
Based on the factors set forth in paragraphs A through I, above, the Executive Director of the Commission has reason to believe that scheduling a hearing in the above-captioned appeal would constitute an abuse of the Commission's administrative process, pursuant to §1-206(b)(2)(C) of the Connecticut General Statutes. Proceeding would be a waste of the scarce resources of the Commission, and would needlessly delay the hearings of hundreds of other complainants. Therefore, the Executive Director shall not schedule the appeal for hearing under that provision.

The Commission shall consider whether or not to affirm the decision of the Executive Director not to schedule a hearing in the above-captioned appeal at its meeting to be held at the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, First Floor, Hartford, Connecticut on **Thursday, October 13, 2016 at 2 p.m.** A copy of the complaint in this matter (two pages), attachment (eight pages) and all other documents in this matter is attached to this Notice.

Each party wishing to submit an affidavit(s) and/or written argument to the Commission regarding whether leave should be granted to hear this appeal pursuant to §1-206(b)(2) of the Connecticut General Statutes may do so. Each party submitting an affidavit(s) and/or written argument to the Commission shall **certify that a copy of such affidavit(s) and/or argument was sent to all parties** of record by U.S. mail, postage prepaid. The Commission requires that

the original and twelve (12) copies be filed by September 30, 2016. This matter is not arguable.

By order of the
Freedom of Information Commission

A handwritten signature in black ink, appearing to read "W. Paradis", written over a horizontal line.

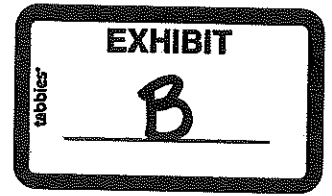
W. Paradis
Acting Clerk of the Commission

Cc: David Godbout
Attorney Mark Zamarka

Enc.

FIC/2016-0218/NDNSH/wrbp/2016-09-16

From: david g [mailto:d_godbout1@hotmail.com]
Sent: Tuesday, December 19, 2017 2:17 PM
To: Karen Galbo; Lesley Blais
Subject: R62 - Record request - town records in possession of Ms. Blais / town clerk of East Lyme



19 DEC 17

Dear Town Clerk/Acting Town Clerk (Ms. Blais / Ms. Galbo),

Pursuant to CGS Sec. 9-187a, it appears as if Ms. Blais is still town clerk and it appears that Ms. Galbo is currently an acting town clerk.

I am seeking to inspect public records.

I am seeking records in the possession of control of Ms. Blais, current or former town clerk for the town of East Lyme.

And I am limiting this request to only those East Lyme public records stored or available (like emails etc.) from the private property or rental properties of Ms. Blais. There is not time limitation to this request, I wish to see all no matter their age.

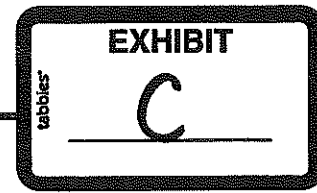
All copies or duplicates, for the purpose of this request for records, are deemed to be different records; if duplicates exist, provide all such records.

David Godbout

This email has been scanned for spam and viruses by Proofpoint Essentials. Click [here](#) to report this email as spam.

This email has been scanned for spam and viruses by Proofpoint Essentials. Click [here](#) to report this email as spam.

Mark S. Zamarka



From: Bill Mulholland <billm@eltownhall.com>
Sent: Tuesday, January 16, 2018 12:17 PM
To: Mark S. Zamarka; Edward B. O'Connell
Subject: FW: R188 -New record request related to Canon copier pdf / email
Attachments: 1560_001.pdf

Fyi, please advise.

From: david g [mailto:d_godbout1@hotmail.com]
Sent: Tuesday, January 16, 2018 12:06 PM
To: Karen Zmitruk <karenz@eltownhall.com>; Bill Mulholland <billm@eltownhall.com>
Subject: R188 -New record request related to Canon copier pdf / email

16 JAN 18

Dear Ms. Zmitruk and Mr. Mulholland,

I am seeking to inspect or, if possible, an electronic copy sent to this email address: d_godbout1@hotmail the following record:

1) the email sent from the Canon C5235 copier/scanner that was used to produce the pdf noted below and attached to this request that was partially responsive to a prior record request

I am particularly interested in the meta data as well. A forwarding of the email that the zoning dept. received from this copier/scanner would best meet my needs.

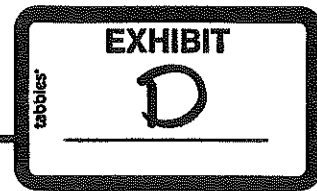
Any questions please let me know.

Sincerely,

David Godbout
860-691-8053

From: Karen Zmitruk <karenz@eltownhall.com>
Sent: Tuesday, January 16, 2018 11:23 AM
To: d_godbout1@hotmail.com
Cc: Bill Mulholland
Subject: FW: 26 White Birch Circle - file photos

Mr. Godbout –
Attached please find the composite photos that we have in the 26 White Birch file.
Mr. Mulholland asked that I forward them to you per your request.
Should you have any questions, please contact Mr. Mulholland.



Mark S. Zamarka

From: Mark Nickerson <MNickerson@eltownhall.com>
Sent: Friday, February 02, 2018 8:24 AM
To: Mark S. Zamarka
Cc: Michael Finkelstein
Subject: Fwd: R1818 - Record request - phone records of ELPD/members
Attachments: Portion of FOIA Seminar Mar 2016- Thomas Hennick Speaking.mp3; ATT00001.htm

Please review and respond to DG that this will be reviewed

PS: We don't know who Selectman Hogan is.

Mark C. Nickerson
First Selectman
Town of East Lyme, CT

Begin forwarded message:

From: Michael Finkelstein <mfinkelstein@eastlymepolice.com>
Date: February 2, 2018 at 8:19:34 AM EST
To: Mark Nickerson <MNickerson@eltownhall.com>
Cc: "navyart@danielprice.com" <navyart@danielprice.com>
Subject: Fw: R1818 - Record request - phone records of ELPD/members

I am forwarding an FOIA request received from Mr. Godbout. I believe that this needs to be reviewed by the Town Attorney due to its complexities. Could you please forward to him, and also advise if he or I should respond to Mr. Godbout for the four day threshold?

Thank you

Michael Finkelstein
Chief of Police

From: david g <d_godbout1@hotmail.com>
Sent: Thursday, February 1, 2018 4:45 PM
To: Michael Finkelstein
Cc: rannhardy@yahoo.com
Subject: R1818 - Record request - phone records of ELPD/members

1 FEB 18

Dear Chief Finklestein,

Attached for your reference is a portion of a meeting held by various town agencies that included a seminar given by the FOI Commission to the town (by Thomas Hennick). The clip

attached relates to personal devices used by agencies and its members that create records that are available under our FOI Act.

Selectman Hogan noted to me recently that she knows that police in town use their personal devices to conduct town (ELPD) business.

Given all these facts, I would like to inspect the personal devices (and/or records related to the devices) possessed by one of your agency's members, Micheal Macek.

I would like to inspect all public records (as the FOI Act defines records i.e. I am not seeking non-public records that would not relate to the agency and its work~but note that there have been cases where even records that would normally be considered non-public have been deemed to be public records in cases where the records detail that the employee has been spending too much time devoted to sending out communications to non-work related people during working hours) that are stored, printed, or otherwise in existence in respect to Mr. Macek's personally possessed devices.

And I would limit this to records created, received, or otherwise from a time period of 1 NOV 17 through the present. And it may include but not limit the request to: phone records, electronic phone records, text messages of phones, emails related to personal email accounts of Mr. Macek, etc.

I would exclude any emails of a town owned email account; not knowing if remote access is available, I would note that emails of Mr. Macek from/to his official town owned email account or town owned phone are not being sought.

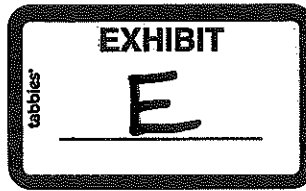
Please respond to this request with an expected time when the records will be available for inspection. If later than one week then please note that I would like to have the opportunity to review each record as they are discovered and not wait for all the records to be collected before having the ability to inspect the records (I am only seeking to inspect records now but may wish to obtain copies of records identified as being desired to being copied as records are being reviewed).

Any questions or comments or need for clarification please let me know. Such things can be discussed in a meeting if a need for clarification is desired.

Its unquestionable that such records are available under our FOI Act.

Sincerely,

David Godbout



7 FEB 18

TO: Town of East Lyme

Ref: Public Record Request

I am seeking to inspect the following records. All are emails. I will note that I am seeking any email attachments and all meta data related to the email, including all meta data in the email attachment.

I am seeking to inspect the records and also would like records to be sent to my email address of d_godbout1@hotmail.com if possible.

A list is provided below of the emails sought. To further describe, these are emails that you received from a copier in town that can pdf scans of paper(s) you wish to be pdfed and emailed to you.

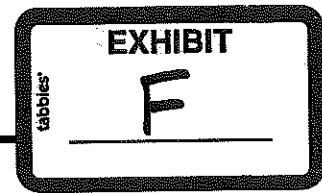
The list below provides you with the following information related to the email you received from a copier: date of email, time of email (on a 24 hr. clock scale), number of pages that I think that the pdf contained. The time of the email is the time when the copier began the process, the time might be the same as on your inbox or maybe off a minute or two (depends on the number of pages, etc) so see the time as possibly not being precise. Given your experience with the copiers and this process I think you'll have no problem finding the record.

I also have an urgent need for these emails and attachments. If you have, for example, two emails responsive to the requests and you know one is OK to provide me but the second may require further review, then provide me with the one immediately, do not wait for both. Understand?

<u>Person</u>	<u>Date</u>	<u>Time</u>	<u># of pages</u>
Mike Macek	1/24/2018	1123	1

David Godbout
15 Cardinal Rd.
East Lyme, CT 06333
860-691-8053

Mark S. Zamarka



From: Michael Finkelstein <mfinkelstein@eastlymepolice.com>
Sent: Monday, March 05, 2018 3:18 PM
To: mnickerson@eltownhall.com; Mark S. Zamarka
Subject: Fw: R1836 _ seeking public records - related to call from assessor's office , afternoon of 3-1-18 ; and other records

New FOIA request

From: david g <d_godbout1@hotmail.com>
Sent: Saturday, March 3, 2018 5:40 PM
To: rmorris@eltownhall.com; Michael Finkelstein
Subject: R1836 _ seeking public records - related to call from assessor's office , afternoon of 3-1-18 ; and other records

3 MAR 18

Dear Director Morris (Emergency Management Public Safety Director) and Chief Finkelstein (Police Chief);

INTRODUCTION

I am seeking to inspect all records related to any and all contacts from the town's assessor's office to your agencies. . And I am seeking only records that do not require any redaction.

See CGS Sec. 1-200 for what is defined as a record; its contains an excellent definition of records that I am seeking and I would use this definition.

I would expect to obtain records such as (but not limited to):

RECORDS REQUESTED - TYPE #1

any and all phone records (cell phone or non-cell phone records, from either town owned or non-town owned devices) like: recordings, records related to any contact contained within the device or otherwise stored elsewhere

any and all notes or other writings related to the contact with your agencies and the assessor's office (regardless if such records were produced after 1 MAR 18 or on 1 MAR 18 ~ as long as a record relates to the time limited contact).

And I would limit such records of this type, relating to contacts, from 1 MAR 18, noon-5pm

RECORDS REQUESTED - TYPE #2

Records of your department that identify employees of your agency. This can be accomplished with a single record that lists the employees or many records that, on the whole, would identify employees' names. So if you have one list available (or even if you wished to produce one) I would accept this as acceptable to meeting the goal of my current needs.

RECORDS REQUESTED TYPE #3

Records that would show who, if any, of the employees of the agency were working for the agency at the date/times of 1 MAR 18, noon through 5pm.

RECORDS REQUESTED TYPE #4

Any and all, what is commonly referred to as "body cams" for any an all policemen and/or employee of any law enforcement for the date 1 MAR 18 from the times of 2pm through 5pm.

RECORD REQUESTED TYPE #5

All cell phone records of all employees and managers and from others of the agency from the date of 1 MAR 18 and times of 2pm through 5pm. Seeking records related to the business of the agency. If such records are contained within devices owned by the employee in his/her personal capacity I demand access to such records; an agency cannot hide the business of the agency just by conducting the agency's business by using personally owned devices.

RECORD REQUESTED TYPE #6

Seeking any and all records related to the charging of fees for photocopying public records. I would expect to see records such as, but not limited to: state statutes authorizing such fees to be collected, ordinances, rules, regulations, policy, emails relating to this subject, notes, and other documents.

URGENCY and FURTHER INSTRUCTIONS

I have an urgent need for these records. When records are discovered and available for inspection do not delay in providing me access to such records. I do not expect all the records to be available at the same time. So, when records are available for inspection please contact me to discuss the providing of access further.

AMERICAN DISABILITY ACT (ADA) NOTICE

While this request is a request to inspect records I may wish to re-create the record or information contained within the record via my own efforts to do so. Ordinarily, this is performed by hand writing the information. However, I have a disability that does not allow me to perform this function (an injury to my hand has caused issues with writing). The town has not objected to the use of a camera to take pictures. While I think that taking pictures of public things are within the scope of our first amendment rights, I further would ask that, for records I may find interesting, that I be allowed to simply photograph the records in lieu of transcribing the records via a written method. I believe that this accommodation would cost the agency nothing, make it quicker for the agency and actually save the agency money, and is a reasonable accommodation under the American Disability Act and is a mandatory requirement for your agency. Photographing the records sought, which likely are not sensitive to photographic methods (in fact, I can photograph without the use of needing a flash of light from a camera) or damage the records in any way.

FOIA ACT AND PHOTOCOPYING

The FOIA Commission recently had a case where a person was charged (and paid) a fee to photocopy public records. The person filed a complaint to get his paid fee back. The FOI Commission noted that fees for photocopying are not noted in the FOI Act and, therefore, did not have the jurisdiction to decide such matters as such fees for photocopying are outside the scope of the FOI Act. So the FOI Act does not authorize a collection of fees for photocopying.

AUTHORITIES FOR REQUEST

I am seeking access to the records sought under: our state's FOI Act, common law rights to inspect records, federal first amendment rights, state free speech rights, and the natural rights of people to access public records.

Any questions please let me know.

Please provide a time when the records are expected to be available for each of the types of records requested. I understand that the times needed for each type of requested record will vary; however, I do not expect to see any rule or policy which violates the production of records to be followed as all such rules are void.

Sincerely,

David Godbout
15 Cardinal Rd.
East Lyme, CT 06333
860-691-8053

This email has been scanned for spam and viruses by Proofpoint Essentials. Click [here](#) to report this email as spam.

East Lyme Assessor Department
via email to Diana Vitagliano
dvitagliano@eltownhall.com



7 MAR 18

Dear Ms. Vitagliano/Assessor's office

I am seeking to inspect the following public records:

- all emails from the date of 1 JAN 2017 to present

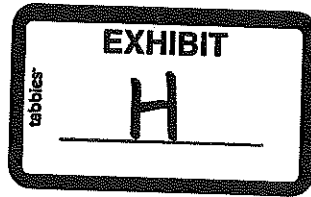
For emails, I seek all attachments as well as emails that had them attached to the email as well as all meta data for emails and attachments. And I would limit these to those that do not require redaction. Emails sent/rec/contained within private devices would be considered as a distinctly different record even if available from a town owned device, so please provide both varieties in the event that a single email is stored on multiple devices owned by different persons.

And this includes all "deleted" or "trashed" emails accessible on the agency's electronic devices. So don't forget these.

Also, to highlight, I am seeking all meta data as well. Previously, your office has not been able to provide these records' full meta data via the method that a part of the records requested were provided. I would suggest and demand that if you cannot provide the meta data requested then you allow me direct access to all of the agency's computers, including any personally owned devices if you cannot otherwise provide me with the full meta data contained in the records sought.

Seeking to inspect all of the agency's emails, not just the assessor's.

David Godbout
15 Cardinal Rd.
East Lyme, CT 06333
860-691-8053



East Lyme Zoning Department
via email to Bill Mulholland
billm@eltownhall.com

7 MAR 18

Dear Mr. Mulholland/ EL Town Zoning Dept.

I am seeking to inspect the following public records:

- all emails from the date of 1 JAN 2018 to present

For emails, I seek all attachments as well as emails that had them attached to the email as well as all meta data for emails and attachments. And I would limit these to those that do not require redaction. Emails sent/rec/contained within private devices would be considered as a distinctly different record even if available from a town owned device, so please provide both varieties in the event that a single email is stored on multiple devices owned by different persons.

And this includes all "deleted" or "trashed" emails accessible on the agency's electronic devices. So don't forget these.

David Godbout
15 Cardinal Rd.
East Lyme, CT 06333
860-691-8053



Mark S. Zamarka

From: Mark Nickerson <MNickerson@eltownhall.com>
Sent: Friday, March 16, 2018 12:58 PM
To: Mark S. Zamarka
Subject: FW: FOIA REQUEST

Another request. Please respond

Mark C. Nickerson
First Selectman
Town of East Lyme, CT

860-691-4110

From: Diane Vitagliano
Sent: Friday, March 16, 2018 12:49 PM
To: Mark Nickerson
Subject: FOIA REQUEST

Mark,

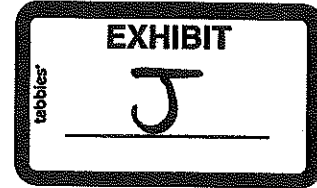
Yesterday March 15, 2018 at 2:35 David Godbout came in our office and put in two verbal FOIA requests. The following is my best interpretation of his confusing FOIA requests.

1. All emails from our office from March 15 to back as far as we think is reasonable.
2. All public emails from March 15, 2018 to January 1, 2018.

Sincerely,
Diane Vitagliano
Assessor CCMA II
Town Of East Lyme
PO Box 519
Niantic, CT 06357
860-691-4107

This email has been scanned for spam and viruses by Proofpoint Essentials. Click [here](#) to report this email as spam.

**TOWN OF EAST LYME
ZONING COMMISSION
MARCH 15, 2018
PUBLIC HEARING MEETING MINUTES**



Members Present:

Matthew Walker, Chairman
John Manning
Norm Peck
George McPherson
Kimberly Kalajainen
Terence Donovan
Anne Thurlow, Alternate

Members Absent:

James Liska, Alternate
David Mcilhenney, Alternate

Also Present:

Bill Mulholland, Zoning Officer

Chairman Walker called the March 15, 2018 East Lyme Zoning Commission Meeting to order at 7:32 p.m.

Pledge of Allegiance

Mr. Walker led the Pledge.

Public Delegations - Time set aside for the public to address the Commission on subject matters not on the Agenda.

David Godbout of 15 Cardinal Road came forward and said he has been looking at past Zoning Meeting Minutes as well as the Zoning Regulations, and has found some disturbing trends:

- Only 2/3 of the Commission is required to add business to the floor.
- In terms of alternate attendance, it is not required in order for them to sit and vote at a followup meeting; it's up to the Chair and meeting minutes to adequately convey the business that occurs at each meeting.
- Ms. Thurlow destroyed public records when she was a member of BAA and asks that she therefore resign from the Zoning Commission.
- In past meetings the Commission has not always complied with the 2/3 vote requirement.
- There has been a significant increase in Zoning cases submitted to the Superior Court in the last 2 or 3 years, and he would like to know why so many.

Mr. Walker asked that Mr. Godbout limit his comments in order to get to the business of tonight's meeting, and Mr. Godbout responded that he is being concise in his comments.

Mr. Godbout detailed his request for public emails from the Land Use office and read part of his response letter from Waller, Smith, and Palmer. He noted it is not his fault if one person works for several different

agencies and they can certainly supply him with all their emails rather than sifting through them. Mr. Godbout asked if the Commission is going to respond to this and supply these emails.

Mr. Godbout said there is no time limit in regards to how long he may speak. He said he has had issues with Mr. Mulholland and his job performance and noted he was thrown out of the Zoning office earlier that day. Mr. Godbout went on to detail a blight case and how the homeowner should have received special consideration.

Mr. Walker said the Zoning Commission strives for perfection and are doing the best that they can; as far as blight goes, the Zoning Commission has no jurisdiction over blight and they will not respond to anything involving blight. Mr. Godbout continued to speak about blight and Mr. Walker said they would close public delegations if he continued.

Mr. Godbout asked the Zoning Commission to supply all of their emails from the first of the year to now, and said he looks forward to their response.

Public Hearing –

1. Application of Jason Westcott, Esq., Agent for Brian Lepkowski, Owner, for a text amendment to Section 23.5 of the East Lyme Zoning Regulations Buffers.

Mr. Walker noted the legal ad published regarding this application and Mr. McPherson read Mr. Mulholland's memorandum dated March 15, 2018 into the record.

Mr. Donovan read the letter from Mary Balint of DEEP dated February 26, 2018 into the record.

Mr. McPherson read the letter from Samuel Alexander of Southeastern Council of Governments dated February 8, 2018 into the record.

Mr. Walker read the letter from the Planning Commission dated March 12, 2018 into the record.

Jason Westcott of 1 Post Hill Place, New London came forward to represent the Applicant. He noted that he and his client have not seen an example of property that could not be developed because of this amendment. He said they're happy to entertain any thoughts that would make this application work. Mr. Lepkowski of 27 Green Valley Lake Road said he understands the amendment is not site specific, even though he will be using 27 Green Valley Lake Road as an example.

Mr. Lepkowski read his prepared presentation for the Commission (Exhibit 1), and Mr. Westcott supplied the Commission with a 1997 map of Green Valley Lakes and Perceived Open Space (Exhibit 2.) He said the most recent map doesn't show a road coming through. Mr. Lepkowski highlighted the following in his presentation:

- The language of the text does not allow the buffer to exist where it's needed most.
- The current regulation clearly states a buffer shall be provided along the entire perimeter to screen development from existing contiguous lots, it does not clearly state whether a buffer shall be provided to screen existing lots from a new development road.
- Adding the language "including along roads" protects the existing resident but creates a problem for future Cluster Development Subdivisions by requiring an unreasonable amount of frontage; a proposed width of 30 ft would require 130 ft of frontage.

- Any instance where access to such property would not be possible due to existing property lines on either side of a proposed development road, the buffer requirement may be reduced or waived altogether.
- The proposed amendment still allows the buffer to be subdivision open space or contained within the lots themselves, so it's not inconsistent with the Conservation Design Development philosophy.
- The amendment will bolster the intent of the original regulation; provide protection for existing residents while encouraging future land development.
- The addition of a road along his property essentially turns his property into a corner lot.

Mr. McPherson pointed out that one of the visual examples 6 and 6.1 (Spring Rock Road) shows the radiuses implying a road was likely thought of. Mr. Lepkowski said it might have been thought of, but are not on the map like all the provided examples.

Mr. Walker called for Public Comments.

Joe Wren PE of 29 Harvest Glen came forward and noted the Planning Commission found this application inconsistent with the POCD. He said the change has to benefit the community as a whole; this expands the width from 50 ft to 90, and 130 if there is a parcel on each side. If you have less than 90 (or 130 if two parcels) you can't develop. In terms of waivers Zoning is no longer able to grant them- a variance would have to be obtained from ZBA, and that puts a burden on the taxpayer; only Planning can grant a waiver. The applicant like DEEP suggests, can certainly install their own buffer such as a fence. It's important to consider how many other parcels that would be adversely affected because of this amendment.

Robert Pfanner Jr. of 2 Surrey Lane came forward and noted J Robert Pfanner Associates did the original plans for Green Valley Lakes. Radiuses were put on the map because the plan was always to install a road. He said a homebuyer has to do his due diligence to research and consider what could happen. If this amendment were to happen developers would be taking a chance; what if a variance wasn't granted? According to our regulations, we don't want small isolated parcels of open spaces. Having more buffer requirements is going backwards and from a planning standpoint is more difficult.

Mr. Pfanner asked who's going to be responsible for the buffer. Responsibility can become a burden on the Town especially as of late with all the storms we've had and the many trees that have gone down. He said our regulations are not meant to be applied on a single property- meant to be more global.

Jason Pazzaglia of 21 Darrow's Ridge Road came forward to speak. He said when he looks at this text amendment it seems broad, but is actually quite site specific. He himself has three properties with 50 foot access strips for future development; with this amendment his original property with one lot on each side would now only be one lot. Mr. Pazzaglia said phase development is done due to the expense associated with subdivisions and creates more buffers.

David Godbout of 15 Cardinal Road came forward and said a waiver and whether you can grant it is a serious matter. He said you may need to table this matter in order to discuss and inform the

public of the legality of the waiver. He asked if this request increases or decreases the freedom of citizens and said he thinks it decreases it.

Mr. Lepkowski of 27 Green Valley Lakes Road came forward and responded to some of the public comments:

- His intent is to protect existing residents and he understands there is opposition by people who want to profit and doesn't fault them for that.
- The amendment benefits the Town by protecting its existing residents.
- He wants the Commission to have the power to do what they see fit.
- This is a rare occurrence and don't see a lot of situations like he himself is in.
- Buffers don't help or change the fact that a corner lot is a corner lot.
- The Commission can reduce or remove buffers as they see fit so he doesn't understand why this is such an issue.
- He said he did do his research prior to buying his property and was pretty much told by the office downstairs to disregard any concern for further development since its been forty years.
- Mr. Lepkowski said there is an abandoned air strip at Stone's Ranch and asked if he is to assume that Bradley will come in and seize it.
- He respects where Mr. Pfanner and Mr. Pazzaglia are coming from but this isn't a ten year phase development, it's been forty years.
- He also thought their comments were rather site specific; they're coming from a business/developer standpoint and now a homeowner's.
- Mr. Lepkowski said laws are for protection and this isn't a freedom issue.

Mr. Manning told Mr. Lepkowski he should be very proud of the work he has done for this application.

Mr. Westcott said he doesn't think this provision would require a variance be obtained.

MOTION (1)

Ms. Kalajainen moved to close the public hearing.

Mr. Peck seconded the motion.

Motion carried, 6-0-0.

Respectfully Submitted,

Brooke Stevens
Recording Secretary

**TOWN OF EAST LYME
ZONING COMMISSION
MARCH 15, 2018
REGULAR MEETING MINUTES**

Members Present:

**Matthew Walker, Chairman
John Manning
Norm Peck
George McPherson
Kimberly Kalajainen
Terence Donovan
Anne Thurlow, Alternate**

Members Absent:

**James Liska, Alternate
David McIlhenney, Alternate**

Also Present:

Bill Mulholland, Zoning Officer

The Commission took a small comfort break at 9:09 p.m. and reconvened at 9:15 p.m.

- 1. Application of Jason Westcott, Esq., Agent for Brian Lepkowski, Owner, for a text amendment to Section 23.5 of the East Lyme Zoning Regulations Buffers.**

Mr. Manning asked for clarification regarding the waiver issue. Mr. Mulholland said Planning can waive a zoning regulation and noted we need to consider the language; is it broken or not broken? He suggested taking this entire home to digest and continue this until the April 5, 2018 Meeting.

Mr. Mulholland exited the meeting.

- 2. Application of the Robert J. Pfanner, Jr., Agent for John Clinton Stull II, Owner; for
for a Coastal Area Site Plan Review for the construction of a new single family dwelling and required appurtenances at 16 Atlantic Street, East Lyme. East Lyme Assessor's Map 11.4, Lot 178.**

Mr. McPherson read Mr. Mulholland's memorandum dated March 15, 2018 into the record.

Robert Pfanner Jr. of 2 Surrey Lane came forward and detailed this application. He said they wish to demolish the current house and rebuild, and went over the house plans with the Commission. The current house is not FEMA compliant and the new house is designed for flood

to go underneath the house as opposed to around it. Mr. Pfanner noted this area floods quite often and that they're actually increasing the flood plain by reducing the existing house.

Ms. Kalajainen asked about the soil and erosion controls and what they would look like. Mr. Pfanner responded that a silt fence will be utilized.

MOTION (1)

Mr. Donovan moved that the Application of the Robert J. Pfanner, Jr., Agent for John Clinton Stull II, Owner; for a Coastal Area Site Plan Review for the construction of a new single family dwelling and required appurtenances at 16 Atlantic Street, East Lyme. East Lyme Assessor's Map 11.4, Lot 178 is consistent with all applicable goals and conditions of the CAM Act, and the Applicant has taken all reasonable measures to mitigate any adverse impacts of the proposed activity on both coastal resources and future water dependent uses.

Mr. McPherson seconded the motion.

Motion passed 6-0-0.

3. Approval of Minutes of March 1, 2018.

MOTION (2)

Ms. Kalajainen moved to approve both the Public and Regular Meeting Minutes of March 1, 2018 as presented.

Mr. McPherson seconded the motion.

Ms. Thurlow noted she sat as a regular member for this meeting and is comfortable voting.

Motion passed, 4-0-2.

Mr. Manning and Mr. Walker abstained from the vote due to their absence from the March 1, 2018 Meeting.

Old Business-

1. Subcommittee-Mixed Use in CB Zone

Mr. Mulholland is working on this.

2. Subcommittee-Maximum Allowed Signage

This needs to be scheduled for Public Hearing if the Commission chooses to pursue this.

Mr. Donovan read Mr. Mulholland Memorandum dated March 6, 2018 into the record.

Mr. Donovan said they are only adding building frontage for the commercial and thinks it should be scheduled for Public Hearing. Mr. McPherson agreed with this assessment.

3. Subcommittee-Site Plan Requirements/Architectural Regulations

Mr. Mulholland is working with the Town Attorney on this.

New Business

1. Application of Theodore A. Harris, Esq., for a text amendment to the East Lyme Zoning Regulations Section 8.2.2 parking.

The Commission will ask Mr. Mulholland to schedule this matter.

2. Any business on the floor, if any by the majority vote of the Commission.

Mr. Manning brought up the medical marijuana dispensaries Mr. Peck spoke about at a previous meeting. He said they're highly regulated and thinks it's important to discuss bringing one here.

Mr. Walker said he knows the Town Attorney gave an opinion on this to Mr. Mulholland, and would like Mr. Mulholland to be here for this discussion.

Mr. Donovan said he agrees with Mr. Manning and Mr. Peck regarding this topic but would like to see this on our next Agenda since the hour is late and the discussion may go on for some time.

Mr. Walker will speak with Mr. Mulholland about the Zoning bylaws.

Mr. Walker shared he spoke with Mr. Mcilhenney and he will take the next week to decide whether he will remain in his position.

3. Zoning Official

Mr. Mulholland was no longer in attendance.

4. Comments from Ex-Officio

Ms. Hardy was not in attendance.

5. Comments from Zoning board liaison to Planning Commission

a. Liska – 3/6/2018

Mr. Liska was not in attendance.

6. Comments from Chairman

Mr. Walker had no report.

ADJOURNMENT

MOTION (3)

Mr. Donovan moved to adjourn the meeting at 9:55 p.m.

Ms. Kalajainen seconded the motion.

Motion passed 6-0-0.

Respectfully Submitted,

Brooke Stevens
Recording Secretary

6/29/2018

Mail - david g - Outlook



R1853 - Cell phones - record request - filed 8 JUN 18 -- re-filing

david g

Fri 6/29/2018, 12:23 PM

To:mfinkelstein@eastlymepolice.com <mfinkelstein@eastlymepolice.com>

29 JUN 18

Dear Chief,

Attached is the prior request related to cell phone records of employees of your agency. Mr. Zemarka's last response related to Mr. Macek was that he had no records, so I expanded upon this narrow request to **all employees of the ELDP agency.**

If you wish to get back to me as to specific individuals that would have records responsive, you can respond back with a list of those and I may be wanting to file another narrow request that would also be responsive to this one and, may withdraw the current request depending on the records obtained from the future possible request.

As to the labor contracts? These don't matter; in our state you cannot hide public records via terms of contracts.

As to what records maybe available ? Since some cell phones are their own little computers this may include: cell phone billing records, text messages, browser histories, and other records.

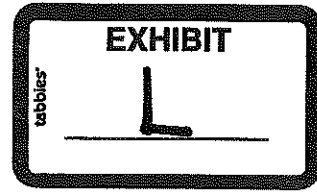
Public records are those records related to the business of the agency. This is broader than records of the business of the agency and extends to records that relate to the business of the agency.

The FOI commission in the past have included even personal text messages as relating to the conduct of the business of the agency maybe considered as public records.

Really, the records requested should be immediately available as the agency should have been storing these records in town, at the agency. Instead, even after this issue has been highlighted in the past, the agency has clearly done nothing to insure that such public records are not kept in town and have taken no steps to insure that the records are not lost or destroyed.

I would suggest that the agency begin storing such public records in town and begin this process of collecting them immediately for this, and as a matter of standard business practices, for records of today and tomorrow as the law requires records to be available at the agency and not scattered about as they currently are.

David Godbout



East Lyme First Selectman and East Lyme Police Dept. and
East Lyme Fire Dept.

ref: R1871 Subject matter of spying cameras for parks - seeking records

25 AUG 18

I noted in the publication "East Lyme Events" vol. 6, quarter 3, 2018 that the town is considering the installation of cameras for surveillance of our parks to combat, ostensibly, vandalism.

Not only is this likely useless as I would guess that almost all vandalism occurs during low light environments, making cameras useless, but it is an affront to American ideals.

While there is no right of privacy in a public place I believe that there is also an American idea that people should be able to go about their business free from continual government spying.

The question becomes if one is willing to toss away all privacy when in parks in town just to capture minor vandalism (not stop it mind you, just record it) ?

As I understand it, these proposed cameras are not meant to be installed as part of any investigation of the police but are just desired to be installed to collect all that they can see all the time. I'm sure that parents of small children will love the idea that their kids are being secretly video taped.

To that end, I wish to learn more and am seeking to inspect the following records related to the new cameras being proposed or moving forward with as well as current spying cameras currently in use at all of the town's parks. And I would limit the time period from Jan 2017 to the present for the following records, and ask for these records from the town agencies of the first selectman, police dept., and fire dept. (if duplicate records are found at two or more agencies, provide records from each of the agencies that have them - so there is no need to check and see if another agency may have the same record - I would want to see such duplicate records to know which agency has such records):

1) all police records of vandalism events

This would include but not be exclusive to: incident reports, summary reports that would include park vandalism as a subject matter (even if including other crimes or other subject matter), phone text messages, emails, and other public records

2) any invoices or price quotes, no matter if formal or informal, relating to the purchase of new cameras

3) video currently collected from the currently existing cameras - further limiting this item to a single day of footage of the prior time limitation. A 24 hr (or as long as

possible) continuous time period from each and every camera is being sought to be examined.

4) all records sent to or obtained from the East Lyme Public Trust Foundation, INC. and/or its officers (CEO, Bd. of Trustees) which include but may not be exclusive to:

Bryan Buckley
Kathie Cassidy
Anne Chekal
Rasa Clark
Polly De Santo
Robert De Santo
Jo-el Fernandez
Donna Gada
James Gallagher
Sandy Greenhouse
John Hoyer
June Hoyer
Joe Legg
Michelle Maitland
Carol Marelli
Holli Nye
Gary Orifice
William Rinoski
Jessica Todd
Vic Vicari
Mathew Whittico
John A Whritner
Eric Janney, Esq, Counsel
Andrew Pappas, Honorary Life Member

For item #4, I would expand this to ANY record subject to the time limitation above but not subject to any subject matter limitation. Ex. An email complaining about a cracked sidewalk in front of town hall? Its not a "park" subject matter but I would seek such a record in this record request anyway. I would limit this requested record only to emails to make it easier for the agencies to search and find. And with emails, all attachments would be included in this request as well as the meta data and body of text that one normally sees as one views an email. A pst file(s) or individual .eml file(s) would suffice.

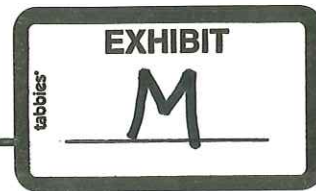
Also note that this record request is being filed under that authorities of CGS Chapter 14, common law rights to records, and natural rights to see government records.

Any questions please let know.

Sincerely,

David Godbout, 15 Cardinal Rd., East Lyme, CT 06333; Ph: 860-691-8053

Mark S. Zamarka



From: Mark Nickerson <MNickerson@eltownhall.com>
Sent: Wednesday, June 06, 2018 4:41 PM
To: Mark S. Zamarka
Subject: Fwd: R1850 - Record request - re-filing request and see body -- civil case Jane Doe v. East Lyme - depositions taken during case requested
Attachments: Godbout record request - depositions pending case.pdf; ATT00001.htm; R49 re-request 14 dec 17.pdf; ATT00002.htm; R49 East Lyme Jane doe case records 2 oct 17.pdf; ATT00003.htm

Another needed response.

Mark C. Nickerson
First Selectman
Town of East Lyme, CT

Begin forwarded message:

From: david g <d_godbout1@hotmail.com>
Date: June 6, 2018 at 3:27:26 PM EDT
To: Sandra Anderson <SAnderson@eltownhall.com>, Mark Nickerson <MNickerson@eltownhall.com>
Subject: R1850 - Record request - re-filing request and see body -- civil case Jane Doe v. East Lyme - depositions taken during case requested

6 JUN 18

Dear Ms. Anderson and Mr. Nickerson.

Attached are two record requests previously filed with the town, seeking depositions related to what was a pending case at New London Superior Court, see prior requests, incorporated into this new request to either inspect the records or obtain an electronic copy via email attachment.

I have also filed several verbal requests including the latest one of 15 MAR 18 directly to Mr. Nickerson at town hall.

After all the record requests made I have not gotten any access to the requested records. I have filed requests directly with the town's attorney and of the first selectman's office and the town clerk's office.

The town, in a motion filed, that included depositions attached, identified the individuals associated with the depositions. And there has been no response to the record requests except for one by Mr. Zamarka who suggested I visit the courthouse where the civil action was/took place. However, I should not have to go to another agency to get town records; I should get access of town records through the town; its irrelevant if they are stored elsewhere. Nor is it

assured that the court has the records requested in any event. So the court is not a reasonable source for the records sought to be collected.

So I will re-request the records here, see prior requests for the records sought, seeking to inspect or electronic copies to be provided via email to me.

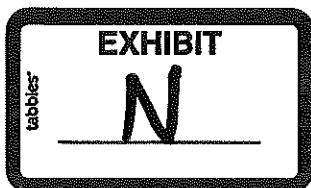
Any questions please let me know. I have been seeking these records for about a year.

David Godbout

This email has been scanned for spam and viruses by Proofpoint Essentials. Click [here](#) to report this email as spam.



**WALLER
SMITH &
PALMER**^{PC}
Attorneys at Law



EDWARD J. COFFINO
FRANK A. COLETTA
PHILIP M. BROWN, III
CHARLES C. ANDREWS, II
KIMBERLY A. KILPATRICK
ELLEN C. BIRBAUM
DARRYL S. ZAMARKA
CATHERINE A. GONZALES
WALTER P. WELSH
DAVID M. FAYERS

November 29, 2018

David Godbout
15 Cardinal Drive
East Lyme, CT 06333

DE COURVILLE
ROBERT W. HARRISON
ROBERT T. ANDERSON, JR.
CHRISTOPHER S. TAYLOR, III

Re: Verbal FOIA request of November 21, 2018

ALSO ADMITTED TO THE
ALSO ADMITTED TO THE

Dear Mr. Godbout:

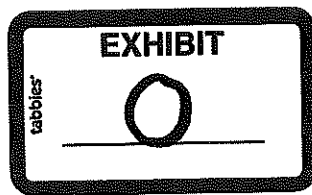
This will acknowledge your verbal Freedom of Information Act ("FOIA") request directed to this firm, wherein you sought billing invoices related to the matter of Godbout v. Attanasio, et. al., which is currently pending in the New London Superior Court. Enclosed are the documents responsive to your request.

You appeared in person at our office to make your request. The office of Waller, Smith and Palmer, P.C. is private property and as such the firm may deny access to the premises. Be advised that you are not welcome here. If you attempt to gain entry in the future you will be asked to leave immediately, and if you do not comply, the proper authorities will be contacted to ensure that you do. Any further communications, on this or any other matter, should be conducted by phone or in writing.

Very truly yours,

Mark S. Zamarka, of
Waller, Smith & Palmer, P.C.

Cc: East Lyme First Selectman



Summary of ELPS Events Involving David Godbout

David Godbout
15 Cardinal Drive
East Lyme, CT 06333

6/28/18 – David Godbout visited the ELHS and stated he filed an email records request on 6/20/18 and is filing a written records request for information on transgender student information.

7/2/18 – He revisited ELHS and Principal Susi acknowledged his records request. (Separate request for ELHS Facebook information)

7/6/18 – David Godbout visited ELHS asking questions and discussing matters with staff regarding the ELHS Facebook account and said he had an issue with limitations to free speech.

7/13/18 – Incident at Central Office/Flanders Elementary School – David Godbout said he was not allowed to file a records request and was not allowed to exercise his freedom of speech. He was seeking access to expense accounts for Superintendent Jeffrey Newton, Assistant Superintendent Amy Drowne, and ELHS Principal Michael Susi for the period 7/13/18 – 1/1/18. He was escorted out of the building by the Superintendent for safety concerns. The ELPD was called.

7/16/18 – David Godbout was denied access to the Central Office/Flanders Elementary School due to safety concerns.

7/16/18 – During public comment at the East Lyme Board of Education meeting, David Godbout expressed concerns regarding an incident at Central Office on Friday, 7/13/18, as he felt he was not able to file a records request (seeking access to expenses of Superintendent, Assistant Superintendent and ELHS Principal for the period 1/1/17 – 7/13/18). He also referred to an email and written records request he previously made to ELHS and compliance was not made. Additionally, he spoke of an incident on 7/6/18 when he visited ELHS to discuss the HS Facebook account and its limitation to free speech. He requested the district's transgender policy and expressed safety of student concerns when it comes to transgender. He then displayed a picture of a high school transgender wrestler which the Board Chair deemed inappropriate. After several attempts by the Board Chair to refrain David Godbout from further comment, David Godbout became agitated and was asked to leave the meeting by First Selectman Mark Nickerson who was present. For fear of safety, the police were called and David Godbout was escorted out of the meeting and building by police (ELPD) due to safety concerns.

7/17/18 – David Godbout was denied access to the Central Office/Flanders Elementary School due to safety concerns. He blocked the entrance and would not allow Flanders Principal Linda Anania into the building. Due to safety concerns, the police were called. David Godbout submitted a Public Record Request dated 7/17/18 (see attached) to Superintendent Newton.

7/17/18 – Superintendent Newton followed up with a letter to David Godbout dated 7/17/18 (see attached) stating he will need to call or email the Superintendent's office to appropriately schedule an appointment to meet with him as it pertains to his requests.

8/14/18 – David Godbout handed out inappropriate flyers to community members during the Primary Election at ELHS regarding ELPS administrators and reference to KGM agents. (see attached).

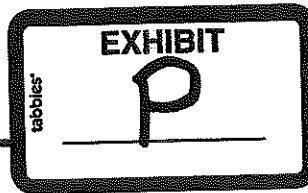
8/14/18 – Superintendent Newton received another Public Records Request dated 8/14/18 (see attached)

8/14/18 – David Godbout hand delivered to Board of Education Chair Tim Hagen's home address a copy of the 7/17/18 Public Record Request.

9/21/18 – Admin Asst Lynn Bodnar notified Philip Miller by email that the documents he requested are now available and asked him to contact Finance Director Maryanna Stevens to schedule an appointment to view them at Central Office.

9/27/18 – A man identified himself as Philip Miller and asked to enter the building as he had an appointment with Finance Director Maryanna Stevens in regards to a Request for Records. The individual was not allowed access to the building as he was actually David Godbout. Campus Safety Staff Edward A. Waido Jr. provided an incident report (see attached incident report dated 9/27/18). The incident was immediately reported to the ELPD.

10/4/18 – David Godbout arrived at Central Office at 2:00 p.m. and rang the exterior doorbell. The security staff met him at the front door. David Godbout requested to meet with the Director of Finance and the Superintendent. Mr. Godbout did not have an appointment. The security staff reminded him of correspondence from the Superintendent that he must make an appointment to meet with any staff member. When asked to leave school grounds, Mr. Godbout refused. After several more requests, he did.



Mark S. Zamarka

From: david g <d_godbout1@hotmail.com>
Sent: Monday, December 10, 2018 5:53 PM
To: Mark Nickerson
Cc: Sandra Anderson; Karen Galbo; John McCulloch; Mark S. Zamarka; Michael Finkelstein
Subject: Re: Debate Challenge to First Selectman ! & Re: Notice & record request of town tax collector

10 DEC 18

Dear Ze,

You need to check with your hairdresser or something before you accept the debate challenge or are you waiting for Macron's makeup artist to become available ?

I have not gotten a response yet.

David Godbout

From: david g <d_godbout1@hotmail.com>
Sent: Monday, December 10, 2018 2:35 PM
To: Mark Nickerson
Cc: Sandra Anderson; Karen Galbo; John McCulloch; Mark S. Zamarka; Michael Finkelstein
Subject: Debate Challenge to First Selectman ! & Re: Notice & record request of town tax collector

10 DEC 18

Dear First selectman, town of East Lyme,

Is the town now threatening me with arrest for exercising my free speech (see your email below) ?

The townspeople demand access to records in accordance with the law and this includes obtaining copies without being charged excessive fees.

The law concerning Xerox-like copies is well settled. Agencies can only charge what it costs to produce, see citations noted in the email I recently sent to the Tax Collector, attached as pdf.

In respect to hand-scanner fees, no town agency has produced a schedule of fees, so no charge for this method of copying is appropriate. And I had a conversation with the chief of police for the town where he stated that the State Librarian noted that he could charge \$20/pg for a copy. I contacted the librarian and got a different answer wherein the librarian noted that a person should be able to get a number of hand-scanned copies for nothing, see my email section below to the chief that highlighted the librarian's opinion on this matter of hand-scanner fees:

From: david g <d_godbout1@hotmail.com>
Sent: Tuesday, October 16, 2018 2:06 PM
To: mfinkelstein@eastlymepolice.com
Subject: Update on record request / State Library on Hand-scanner costs / CNN 18-4 ELPD h

16 OCT 18

Dear Chief Finklestein,

SCANNER FEES - record requested

On the matter of hand scanner fees that we recently discussed. You stated that the : could charge \$20/page even for a single copy to be obtained. I contacted the state li opposite response that included:

If an individual wishes to make only one or a few copies using a scanner and not pay the fla

When I was collecting signatures on a petition collected on the last election day, people were not happy to hear the town's copying fees policy to which you still wish to repeat. And when I offered a concise friendly debate on election day with the chief concerning these matters he ran away.

I challenge you, first selectman, to a debate on this issue at an agreed upon time at a future bd. of selectman meeting. Make it an agenda item, require position statements to be made and to be part of the minutes of the meeting (along with any other documents produced during debate), rules to be discussed at a board meeting, and have a spirited American debate on this subject matter. Only a person that knows that they have a merit-less argument to make would decline such an offer.

David Godbout

P.S. in the record requests currently pending with the Tax Collector, I am not seeking copies, just to inspect

From: Mark Nickerson <MNickerson@eltownhall.com>
Sent: Monday, December 10, 2018 12:34 PM
To: david g

Cc: Sandra Anderson; Karen Galbo; John McCulloch; Mark S. Zamarka
Subject: RE: Notice & record request of town tax collector

David,

We have been down this road too many times. At this point, I consider it harassment.

The town's policy is 50 cents per page. If you choose to use a camera or scanner, it is \$20 per day (unlimited use).

I know you disagree with our policy. You can make the font as big and colorful as you wish, the policy remains. I suggest, as I have a dozen times with you, to make a complaint to the FOIA commission. Our department heads, staff, etc are not authorized to change the terms of our policy.

Mark C. Nickerson
First Selectman
Town of East Lyme, CT

860-691-4110

From: John McCulloch
Sent: Monday, December 10, 2018 8:08 AM
To: Mark Nickerson; Sandra Anderson; Karen Galbo
Subject: FW: Notice & record request of town tax collector

From: david g [mailto:d_godbout1@hotmail.com]
Sent: Friday, December 07, 2018 5:00 PM
To: John McCulloch
Subject: Re: Notice & record request of town tax collector

7 DEC 18

Dear Mr. McCulloch,

I have no idea who you talked to at the state (and even you cannot recall) but the FOI commission has noted, time and time again, that fifty cents per page is the max. you can charge and only if it costs you fifty cents or more to produce. If the copy costs you less than fifty cents of recoverable costs then that is what you are legally allowed to charge. **I have asked you before for any records that would support a fifty cents per page charge for black and white regular copies and you have not provided anything responsive. I'll ask again here to inspect such records; I'll look at any, if any, when I drop in to inspect the tax records.**

Maybe you should READ actual decisions by the FOI Commission instead to taking advice from someone who is not knowledgeable of the subject matter. And the FOI Commission, advisory opinion #1 notes that excessive fee demands equate to refusing to provide records to the public.

In this case, I sought only to inspect and not for copies. I'll stop by soon to inspect the records.

David Godbout

From: John McCulloch <JMcCulloch@eltownhall.com>
Sent: Friday, December 7, 2018 1:51 PM
To: david g
Subject: RE: Notice & record request of town tax collector

Dear Mr. Godbout,

I have made copies of your tax records going back all 15 years for you. Its ready to pick up whenever you want during office hours. There are 29 pages at \$.50 per page for a total cost of \$14.50, Whether you want Them or not is up to you. We've had the \$0.50 charge per page discussion before. I've talked to the State on this issue before and they agree with me on the cost.

John

From: david g [mailto:d_godbout1@hotmail.com]
Sent: Friday, December 07, 2018 1:29 PM
To: John McCulloch
Subject: Re: Notice & record request of town tax collector

7 DEC 18

Dear Mr. McCulloch,

I am seeking records for the time period sought initially so you may continue to collect the records beyond 3 years. I think I'll leave it up to a judge how far back I can re-acquire my property that I allege was unlawfully taken.

As for the fifty cents copying fees, if it cost you that to make then it would be appropriate; if not, then I suggest you look at the FOI commissions advisory opinions #59 and #30 and you'll see that the most you can charge is the cost to produce. Have you switched to printing on gold sheets?

As for hand scanning, our chief of police suggest I contact the state librarian which I did and she stated that a small number of scans should be available free of charge. As as to pictures, the FOI Commission recently noted in a case that the FOI Act does not authorize charging for the taking of pics and questioned if an agency could even charge for taking pictures.

You do not want your staff to commit larceny or attempted larceny. Following bad legal advice? That's on the person that takes it.

I'm sure you've been told that you need to respond to a record request immediately but you know now that this was bad advice.

David

From: John McCulloch <JMcCulloch@eltonhall.com>
Sent: Thursday, December 6, 2018 1:48 PM
To: david g
Subject: RE: Notice & record request of town tax collector

Dear Mr. Godbout,

I have your bills over the last three fiscal years compiled. According to our Assessor the only bills that could be amended are in this time period. As you know the price is \$0.50 per page. Do you still want the other twelve years even though they can't be changed ?

John McCulloch

From: david g [mailto:d_godbout1@hotmail.com]
Sent: Thursday, December 06, 2018 1:31 PM
To: John McCulloch
Cc: Karen Galbo
Subject: Re: Notice & record request of town tax collector

6 DEC 18

Dear Mr. McCulloch/East Tax Collector,

I have not received a response to my record request that I filed on 28 NOV 18 (see email related to request below).

Will you have the records ready by 12 DEC 18 ? And, if not, why not. Two weeks should be more than an adequate time period to gather the records requested and I think that they could be provided immediately if needed. As the FOIC has noted many times, recently in case # 2017-0751, decided August 2018, immediate access to records is what the law requires in many cases:

16. The FOI Act contemplates that citizens will walk into the officials requesting to inspect public records and that, when possible, be complied with immediately. See ¶ 5, above (stating, in relevant part, that citizens shall have the right to inspect public records promptly during regular hours).

The voters and citizens of East Lyme also demand that our records laws be complied with, see attached 1st page of petitions that the people of our town have signed.

If I am able to get these records via a simple visit, as I think I should be able to, then I will come in at my convenience, likely before 12 DEC.

Let me know either way...but you do have a pending request to which you have not responded to and a response would be appreciated.

Sincerely,

David Godbout

From: david g <d_godbout1@hotmail.com>
Sent: Wednesday, November 28, 2018 11:43 AM
To: jmcculloch@eltownhall.com
Cc: kgalbo@eltownhall.com
Subject: Notice & record request of town tax collector

28 NOV 18

Dear Tax Collector for town if East Lyme,

Attached is a notice of intent to sue, see pdf attached. Its attached for reference; I mailed it to the town clerk today.

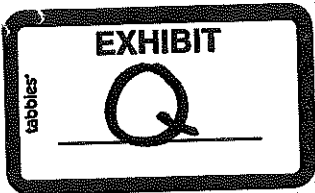
I would like to inspect all of the property tax payments or bills and "refunds" due to assessment adjustments of the board of assessment appeals related to motor vehicles that were associated with my address, 15 Cardinal Rd.; limiting this to a time period of 2002 to present.

The goal of the request is to come to a calculated amount, as accurate as possible, of motor vehicle property tax payments to seek reimbursement from the town.

Also, please provide me as to a date when these records would be available. There is no rush to this request but I would like it completed within 2 weeks. If you have issues with this time line please let me know.

Sincerely,

David Godbout



East Lyme Police Department
(860) 739-5900

Case Number 18-16304-07
Date 12/26/18
Time Started 12K
Time Ended 1221

WITNESS STATEMENT OF SANDRA ANDERSON

I, SANDRA ANDERSON
of 109 PENNSYLVANIA AVE, town/city of NIANTIC
phone number 860-691-4110, date of birth 11/7/67

make the following statement, without fear, threat, or promise. I have been advised that any statement(s) made herein which I do not believe to be true, and which statement is intended to mislead a public servant in the performance of his/her official function, is a crime under C.G. section 53a-157.

I read and/or write English [initials]

THIS MORNING AROUND 11:45 AM SO AN INDIVIDUAL THAT I KNOW TO BE DAVID GODBOAT CAME INTO THE FIRST SHELTON'S OFFICE. WITHIN I AM EMPLOYED AS THE ADMINISTRATIVE ASSISTANT FOR THE FIRST SHELTON FOR THE TOWN OF EAST LYME. MR. GODBOAT HAS BEEN IN THE OFFICE SEVERAL TIMES OVER THE LAST FEW YEARS. MR. GODBOAT WAS LOOKING FOR INFORMATION ON THE PROPOSED PUBLIC SAFETY ^{COMPLEX} ~~WASTELAND~~. I ADVISED HIM THAT MR. NICKERSON WAS ON THE TOWN OF EAST LYME WEBSITE. HE WAS LOOKING FOR A "WAIVER OF FEES", SO THAT HE COULD SEEK OUT INFORMATION FROM OTHER TOWN DEPARTMENTS. I TOLD HIM THAT HE WOULD HAVE TO SPEAK WITH THE 1ST SHELTON - MR. NICKERSON & HE TOLD ME THAT HE WOULD HAVE TO SPEAK WITH MR. NICKERSON & I TOOK DOWN HIS PHONE # SO THAT I COULD GIVE IT TO MR. NICKERSON WHO IS GONE FOR THE DAY. MR. GODBOAT WANTED ME TO GIVE HIM THE WAIVER OF FEES & I TOLD HIM I COULD NOT GIVE HIM THAT & IT WOULD HAVE TO BE APPROVED BY MR. NICKERSON. MR. GODBOAT THEN BEGAN RAISING HIS VOICE CALLING ME A "FUCKING BASTARD" & "YOU ARE FUCKING BASTARDS". HE PROBABLY SAID THIS MAYBE A DOZEN TIMES. I WAS ALONE IN THE OFFICE & HE WENT WALKING BACK & FORTH SAYING THE SAME THING "YOU ARE SO FUCKING BASTARDS". HE TOLD ME THAT THIS WAS HOW HE WAS GOING TO TREAT ME FROM NOW ON. I WAS FEELING GIVEN GODBOAT'S BEHAVIOR & PUSHER THE PAIN BUTTON TO WHAT GODBOAT SAID "THERE YOU GO PUSHER THAT FUCKING BUTTON, YOU FUCKING BASTARD". DURING THE WHOLE INTERACTION I WAS ALARMED BY GODBOAT'S BEHAVIOR.

By affixing my signature to this statement, I acknowledge that I have read it and/or have had it read to me and it is true to the best of my knowledge and belief.

Witness: [Signature] #917 Signature: [Signature]
Witness: _____ Signature: _____

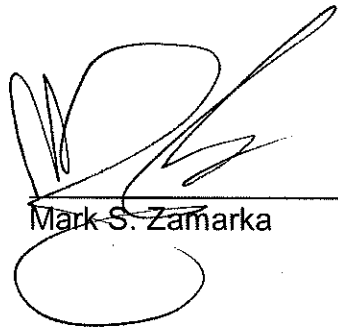
Personally appeared the signer of the foregoing statement and made oath before me to the truth of the matters contained therein.

If notarized, endorse here: _____

CERTIFICATION

I hereby certify that a copy of the foregoing was mailed postage prepaid and/or hand-delivered on March 6, 2019 to all counsel and pro se parties of record, including:

David Godbout
15 Cardinal Road
East Lyme, CT 06333



Mark S. Zamarka

WALLER, SMITH &
PALMER, P.C.
Counselors at Law
52 Eugene O'Neill Drive
P.O. Box 88
New London, CT 06320
Tel. No. (860) 442-0367
Juris Number 65975