# Town of New Lebanon

**Resolution #32, 2022**

**Decision on Freedom of Information Law Appeal (J. Grune, July 26, 2022)**

**August 9, 2022**

At a regular meeting of the New Lebanon Town Board, held on the 9th day of August 2022, the following Resolution was proposed and seconded:

Resolution by Councilmember Buckenroth

Seconded by Councilmember Anthonisen

***Decision on Freedom of Information Law Appeal (J. Grune, July 26, 2022)***

WHEREAS, Jeffrey Grune submitted a Freedom of Information Law Request dated May 31, 2022, a copy of which is attached hereto, and which was received in the Office of the Town Clerk on June 6, 2022; and

WHEREAS, on or about July 1, 2022, the Town Clerk sent approximately 650 pages in PDF format in response to Mr. Grune’s FOIL request; and

WHEREAS, on August 1, 2022, the Office of the Town Clerk received correspondence from Mr. Grune, a copy of which is annexed hereto, in which he indicated that he did not receive a Trailer Park Operating License for 2019 (referring to a Mobile Home Park Annual License Renewal for 2019) or records relating thereto, and asserting that a reason for withholding the records has not been provided; and

WHEREAS, under local law, the Town Board is designated as the body designated to determine appeals regarding a denial of access to records under the Freedom of Information Law; and

WHEREAS, although Mr. Grune’s August 1, 2022 letter does not indicate that he is formally appealing a denial of access of records under the Freedom of Information Law, the Town Board recognizes that Mr. Grune’s August 1, 2022 letter questions whether certain records were improperly withheld, and further that a failure to treat Mr. Grune’s August 1, 2022 letter as an appeal may result in prejudice to Mr. Grune in that otherwise any appeal under the Freedom of Information Law, which must be filed within 30 days of a response, may be time-barred, and accordingly, the Town Board intends to deem Mr. Grune’s August 1, 2022 letter to be an appeal under the Freedom of Information Law; and

WHEREAS, the Town Board has considered the statements of Mr. Grune in his August 1, 2022 letter in support of his appeal; and

WHEREAS, the Zoning Enforcement Officer, Cissy Hernandez, has indicated that she compiled and prepared records from the files of the Building Department/Code Enforcement Office for production in response to Mr. Grune’s May 31, 2022 FOIL request; and

WHEREAS, Zoning Enforcement Officer Hernandez, has indicated that, after diligent search, a Mobile Home Park Annual License Renewal for 2019 was not located and that a copy of a 2 Mobile Home Park Annual License Renewal for 2019 is not on file in the Building Department/Code Enforcement Office;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The recital clauses set forth above are expressly incorporated herein; and
2. Mr. Grune’s August 1, 2022 letter is hereby deemed to be an appeal under the Freedom of Information Law from an alleged denial of access to records in response to Mr. Grune’s May 31, 2022 Freedom of Information Law request; and
3. Mr. Grune’s appeal is hereby decided as follows: All records that were located that were responsive to Mr. Grune’s May 31, 2022 FOIL request have been provided. After a diligent search, a Mobile Home Park Annual License Renewal for 2019 was not located.
4. The Town Supervisor is hereby authorized and directed to transmit a letter to Mr. Grune, with a copy to the New York State Committee on Open Government, setting forth this decision, along with a copy of this Resolution, within the time set for decision on appeals under the Freedom of Information Law.

Upon the question of the foregoing Resolution, the following Town Board Members voted “Aye” or “Nay” for said Resolution:

Roll Call Vote:

 Councilmember John Trainor Aye

 Councilmember Deborah Gordon Aye

 Supervisor Tistrya Houghtling Aye

 Councilmember Marianna Anthonisen Aye

 Councilmember Britt Buckenroth Aye

The Resolution, having been ***approved*** by a majority vote of the Town Board, was declared ***duly adopted*** by the Supervisor of the Town of New Lebanon.

Dated: August 9, 2022

Marcie Robertson

Town Clerk

Town of New Lebanon