

FREEDOM OF INFORMATION COMMISSION
STATE OF CONNECTICUT

In the Matter of a Complaint by :
:
Vivian Schomer, Complainant : Finding and Order
:
against : Docket #FIC 75-14
:
Westport Planning and Zoning : December 17, 1975
Commission, Respondent :

The above-captioned matter was heard as a contested case on December 3, 1975, under the emergency regulations setting forth rules of practice of this Commission. At that time the complainant and respondent appeared and presented testimony, exhibits, and argument on the complaint.

After consideration of the evidence, the following facts are found by the Commission:

1. The respondent is a public agency, as it is the Planning and Zoning Commission of the Town of Westport.

2. The complaint was received by the Freedom of Information Commission on November 12, 1975. All acts alleged that occurred before October 28, 1975, are beyond the fifteen day period within which a complainant must assert a denial of access as a matter within the jurisdiction of the Freedom of Information Commission under §14 of the Act.

3. As to the October 30, 1975, special meeting of the respondent, a notice in the form of the agenda was filed more than twenty-four hours before the meeting with the Westport Town Clerk who placed the notice in a large looseleaf book which was kept closed in a glass bookcase in the office of the Town Clerk. No notice of the October 30 meeting was posted in the office of the Town Clerk.

4. The Commission notices in passing that testimony was offered as to the respondent's meeting of October 16, 1975. At that time, the complainant suggested that respondent attempted to circumvent the procedures concerning executive sessions by conducting substantial parts of its discussions sotto voce. By deliberately speaking in an inaudible manner, the members of this public agency would be found to have denied the public its lawful access to the meeting as effectively as if the meeting had been conducted in camera, a violation of Public Act 75-342.

5. Similarly, complainant suggested that denial of access to respondent's meetings of October 9, 16, and 23, 1975, occurred on grounds that she was not permitted to address the respondent during those meetings and was ruled out of order. The Commission would not find this assertion to constitute a violation of Public Act 75-342. The Freedom of Information Act provides for access to sources of information. Neither its letter nor its intent encompasses protection of any right to be heard at a meeting of a public agency that is not a public hearing.

6. Questions of proper notice may be appealed to the Freedom of Information Commission under §14(c) of the Act. Proper notice of public meetings is a basic right which the Commission is charged to protect.

7. While §6 of P.A. 75-342 allows the schedule of regular meetings to be filed with the Town Clerk, notice of special meetings must be posted in the Town Clerk's office. In that public agencies, such as respondent, are responsible for giving proper notice, such agencies are also responsible for the actual posting of notice.

8. While the respondent attempted in good faith to comply with Public Act 75-342 by filing its agenda with the Town Clerk of the Town of Westport, it nevertheless deprived the complainant of access to its special meeting of October 30, 1975, by failing to post the notice required by this statute more than twenty-four hours prior to that meeting, as required by §6 of P.A. 75-342.

9. As to item I.A. of the October 30, 1975, special meeting agenda, the complainant testified that the subject realty was located adjacent to real estate owned by the complainant, which the complainant believed would be affected by the decision of the public agency.

ORDER

1. The respondent shall give notice of each special meeting not less than twenty-four hours prior to the time of such meeting.

2. The method by which the respondent gives such notice shall be by posting the notice in the office of the Town Clerk of the Town of Westport.

3. The notice of the special meeting must include but shall not be limited to the following information to be explicitly stated therein:

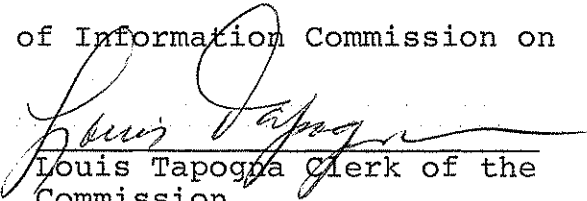
- a. The correct name of the respondent;
 - b. The date, time, and place where the the special meeting will be convened by the respondent;
 - c. All of the agenda items that comprise the business the respondent proposes to transact at the special meeting.
4. That notice must remain posted on a bulletin board or other publicly visible location within the office of the Town Clerk of Westport at all times from the time it is posted by the respondent until after the special meeting has adjourned.
5. The respondent shall give the Town Clerk notice of the provisions of this Order and request the Town Clerk to designate an appropriate location in the office of the Town Clerk of Westport for the posting of notice of special meetings in compliance with this Order and Public Act 75-342.
6. The respondent is responsible for complying with this Order and with the requirements of Public Act 75-342 that it post a notice of every special meeting.

By Order of the Freedom
of Information Commission



Herbert Brucker
Its Chairman

Final order approved by Freedom of Information Commission on
December 23, 1975.



Louis Tapogna Clerk of the
Commission