

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by)	
The Hartford Courant and Reid)	
MacCluggage, Complainants)	Report of Hearing Officer
)	
against)	Docket #FIC76-113
)	
State of Connecticut; and the)	August 16, 1976
Commission on Human Rights and)	
Opportunities, Respondents)	

The above captioned matter was heard as a contested case on July 27, 1976, at which time the complainants and the respondents appeared and presented testimony, exhibits and argument on the complaint.

After consideration of the entire record, the following facts are found:

1. The respondents are public agencies.
2. By letter dated June 2, 1976, the complainants requested that the respondent commission grant them access to inspect copies of complaints (which are, in fact, affidavits of complaint), investigators' findings and case dispositions on file with, or in the custody of, the respondent commission. The complainants also requested access to observe action by the respondent commission on all cases before it.
3. By letter dated June 16, 1976, the respondent commission, by its executive director, offered a limited compliance to the complainants' requests. The offer of compliance consists of access to inspect and copy investigated complaints, findings and letters of disposition regarding all matters which have been closed by the respondent commission and for which the statutory appeal period has expired. The respondent commission also invited the complainants to attend its meetings, while reserving the right to conduct such meetings in executive session.
4. Having treated the respondent commission's offer of compliance as a denial of rights conferred by P.A. 75-342, the complainants filed the present appeal with this Commission on June 28, 1976.
5. The complainants have failed to allege or prove that they have been improperly excluded from a meeting of the respondent commission within the fifteen day appeal period of §14(b) of P.A. 75-342. Consequently, this Commission has no jurisdiction to entertain the issue of whether or not the respondent commission improperly excludes the public from its meetings.
6. The respondent commission contends that §31-127, General Statutes, provides a statutory exemption to disclosure

of the requested documents pursuant to §2(a) of P.A. 75-342.

7. §31-127, General Statutes, states that no "commissioner or investigator [of the respondent commission] shall disclose what has occurred in the course of such endeavors...." The term "such endeavors" refers earlier in the statute to actions by a commissioner or investigator of the respondent commission "to eliminate the unfair employment practice complained of by conference, conciliation and persuasion."

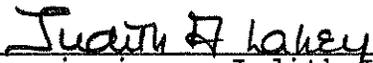
8. It is clear from the above-cited statutory language of §31-127, General Statutes, that all documents, developed by the respondent commission in regard to complaints filed with it, are exempt from disclosure pursuant to §2(a) of P.A. 75-342. However, it is concluded that complaints, or affidavits of complaint, are not exempt from disclosure under either of the statutory provisions herein cited.

9. The respondent commission further contends that complaints are also exempt from disclosure pursuant to §2(b) (3) of P.A. 75-342.

10. §2(b) (3) of P.A. 75-342 exempts from disclosure "records pertaining to pending claims and litigation to which the public agency is a party...." The respondent commission is not a party to any claim brought before it at the time a complaint is filed with it. At such time, it is in essence a fact finding, conciliation and quasi-judicial agency. Therefore, §2(b) (3) of P.A. 75-342 does not provide the respondent commission with an exemption from disclosure of complaints at the time they are filed.

The following order by the Commission is hereby recommended on the basis of the record concerning the above captioned complaint:

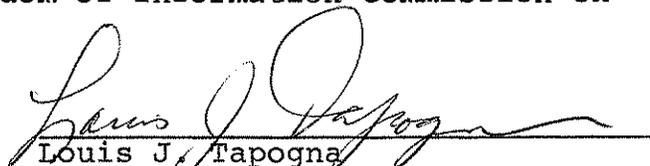
1. The complaint is hereby dismissed except that the respondent commission shall forthwith provide the complainants with access to inspect or copy all complaints, or affidavits of complaint, filed with, or in custody of, the respondent commission, in accordance with §2(a) of P.A. 75-342.



Commissioner Judith Lahey

as Hearing Officer

Approved by order of the Freedom of Information Commission on August 25, 1976.



Louis J. Tapogna
Clerk of the Commission