

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by)
Winsted Evening Citizen,) Report of Hearing Officer
 Complainant)
 against) Docket #FIC76-180
) November 29, 1976
Town of New Hartford and the)
New Hartford Zoning Board of)
Appeals, Respondents)

The above captioned matter was heard as a contested case on November 9, 1976 at which time the complainant and the respondent board appeared and presented testimony, stipulated to certain facts and presented argument on the complaint.

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

1. The respondents are public agencies as defined by §1(a) of P.A. 75-342.
2. On October 18, 1976 and October 19, 1976, the complainant, through one of its reporters, requested permission from the respondent board to listen to the tape record of the respondent board's October 12, 1976 public hearing.
3. The respondent board denied both requests and the complainant appealed therefrom to this Commission by letter dated October 19, 1976 and filed herewith on October 20, 1976.
4. The respondent board had custody and possession of the aforementioned tape record at the time of both requests.
5. The respondent board contended that disclosure of the requested tape record was not required until the close of the statutory appeal period because it constituted a record "... pertaining to pending claims and litigation to which the public agency is a party ..." under §2(b)(3) of P.A. 75-342.
6. There was no showing at the hearing on this complaint that at the time of the aforementioned requests an appeal naming the respondent board as a party thereto had been filed in a court of competent jurisdiction from one of its decisions of October 12, 1976.
7. It is concluded that at the time of the aforementioned requests the requested records were not records pertaining to pending claims and litigation within the meaning of §2(b)(3) of P.A. 75-342.

8. It is therefore found that the respondent board violated §2(a) of P.A. 75-342 by not granting the complainant its requests.

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

1. The respondent board shall forthwith permit the complainant to listen to the tape record of the respondent board's October 12, 1976 meeting if the complainant continues to so desire.

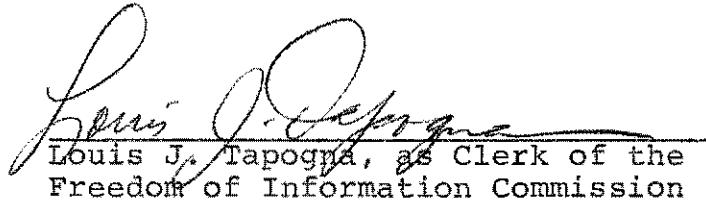
2. Henceforth the respondent board shall strictly comply with the provisions of §2(a) of P.A. 75-342 concerning the right to inspect or copy records, as interpreted by these findings.

Judith A. Lahey

Commissioner Judith A. Lahey

as Hearing Officer

Approved by order of the Freedom of Information Commission on December 8, 1976.



Louis J. Tapogna, as Clerk of the
Freedom of Information Commission