

Freedom of Information Commission
of the State of Connecticut

In the Matter of a Complaint by)
The Advocate, Complainant) Report of Hearing Officer
against) Docket #FIC 76-42
City and Town of Stamford and) April 12, 1976
The Board of Representatives of)
the City and Town of Stamford,
Respondents)

The above captioned matter was heard as a contested case on March 29, 1976, at which time the complainant 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 as they are the City and Town of Stamford and the Board of Representatives of the City and Town of Stamford, respectively.
2. The present complaint is dated March 10, 1976 and is signed by Roland E. Blais as the managing editor of the Advocate, a newspaper located in Stamford, Connecticut. The complaint alleges certain violations of P.A. 75-342 arising from a meeting of the appointments committee of the respondent board held on February 26, 1976.
3. The appointments committee is a standing committee consisting of ten members of the respondent board. Its function is to interview nominees to various city boards and commissions and to report to the respondent board its recommendations concerning the merits of each nominee interviewed. The number of the members of the appointments committee is less than a quorum of the respondent board.
4. The appointments committee met on February 26, 1976 for the purpose of interviewing nominees and discussing the merits of each nominee in order to report as a committee to the respondent board.
5. The complaint alleged this committee improperly convened in executive session as part of its February 26, 1976 meeting. It is found that the committee conducted interviews of nominees in public session. It is also found that thereafter the committee unanimously voted to convene in executive session to discuss the merits of the nominees so interviewed and to vote on whether to recommend each such nominee to the full respondent board.

6. It is concluded that the appointments committee lawfully convened in executive session pursuant to sec. 6 of P.A. 75-342 for reasons permitted by sec. 1(e)(1) of that Act.

7. The complaint alleged and the respondents admitted that the appointments committee failed to publish either the record of the votes or the minutes taken at the executive session of February 26, 1976.

8. The respondents introduced as evidence a certified copy of the minutes of the respondent board's meeting of March 1, 1976. Adjacent to the endorsement of the official signing these minutes is the date notation "3/26/76."

9. Absent evidence to the contrary, it is found that these minutes were published on March 26, 1976.

10. The minutes of the meeting of March 1, 1976 contain the report of the appointments committee from its February 26, 1976 meeting, including the totals for each vote taken at such meeting. The vote of each member of the committee is not recorded, however.

11. The published report of the appointments committee as contained in the respondent board's minutes of March 1, 1976, constitute the minutes of such committee's executive session of February 26, 1976. It is concluded that the complainant's allegation that the appointments committee failed to publish minutes of its February 26, 1976 executive session, while valid at the time it filed this complaint, is no longer a contested issue in this case, since the respondents have now complied with the provisions of P.A. 75-342.

12. The issue to determine is whether the appointments committee was required by P.A. 75-342 to make public the record of each member's votes taken at its February 26, 1976 meeting. It is necessary to resolve first the two subordinate issues raised by the respondents.

13. The respondents claim that the complainant failed to prove that it is a "person" as defined in sec. 1(c) of P.A. 75-342 and as mentioned in sec. 14 of the Act and they argue that the complainant has no standing before this Commission for that reason. This contention is totally devoid of any merit. As stated in paragraph 2 above, the complaint was signed by Roland E. Blais as the managing editor of the Advocate newspaper. This Commission designated the complainant herein as the Advocate. Both the legislative history of P.A. 75-342 and the prior decisions of this Commission support the conclusion that the newspaper and its employees, reporters, and supervising editors constitutes a person within the meaning of the Act and that it is the proper party in interest before this Commission.

14. The respondents further claim that the appointments committee, as a standing committee of the respondent board, is not a public agency as defined by P.A. 75-342 and for that reason is not required to comply with the provision of that Act. This is a complicated question and it requires explicit analysis for the purposes of this case.

15. P.A. 75-342 does not mention committees in its definition of a public agency. This bears on the application of Sec. 1-12, Gen. Stats., where the phrase "public agencies" was substituted for the reference to "all administrative and executive boards, commissions, agencies, bureaus, committees and other bodies of the state or any of its political subdivisions."

16. The omission of "committees" from the statutory definition of a public agency is an anomaly that does not appear to be consistent with either the purpose of P.A. 75-342 or the context in which the language is found. Clearly, no exemption based on any semantic distinction, such as this, was intended. This committee is found to be a part of the public agency which created it.

17. Whether or not the meeting of this committee is governed by P.A. 75-342 turns on the definition of a meeting set forth in sec. 1(b) of that Act. In this context, the nature, content and effect of the performance of the committee's functions will determine the Commission's application of the Act to the committee's meeting and must vary from case to case.

18. The role of the appointments committee was not to exercise any decision-making function of a public agency but merely to report to its parent board its opinion and facts it found concerning the nominees. It was the action of the full board concerning such nominees, pursuant to the powers and authority delegated by law, that constituted the exercise of a public agency function in this case.

19. It is concluded that the meeting of the appointments committee on February 26, 1976 was not a meeting of a public agency that required the publication of its vote in the manner provided by sec. 6 of the Act.

20. While the failure of the appointments committee to publish a record of votes taken at its February 26, 1976 meeting was not a violation of P.A. 75-342, it appears from the minutes of the respondent board's meeting of March 1, 1976, that the votes concerning certain nominees to various boards and commissions were taken by secret ballot. There is no record of the votes of the individual members of the respondent board. This may indeed be a violation of P.A. 75-342 because, as discussed above, these were the meaningful votes of the public agency. Since this issue was not raised by the complaint, however, it is found that this Commission will not draw any conclusion or issue any order concerning this omission.

21. For the same reasons, the publication of minutes of the respondent board's March 1, 1976 meeting on March 26, 1976 appears to violate sec. 6 of P.A. 75-342. But in the absence of any complaint, this Commission will make no finding or order concerning that aspect of the case.

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 since the February 26, 1976 meeting of the appointment committee of the respondent board was not a meeting of a public agency within the meaning of P.A. 75-342.

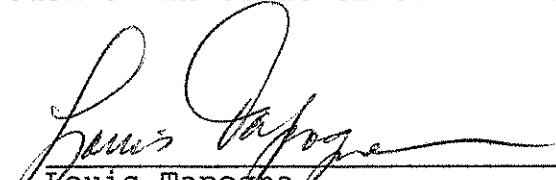
2. This Commission recommends that henceforth the respondent board strictly comply with the requirements of P.A. 75-342 concerning the publication and recordation of minutes and votes taken at its future meetings.



Commissioner Helen Loy

as Hearing Officer

Approved by order of the Freedom of Information Commission on April 28, 1976.



Louis Tapogna
Clerk of the Commission