

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Ralph Prete,

Complainant

Report of Hearing Officer

against

Docket #FIC78-143

City and Town of West Haven;
and Zoning Board of Appeals
of the City and Town of New
Haven,

March 14, 1979

Respondents

The above captioned matter was originally heard on October 2, 1978 by Commissioner Lahey as Hearing Officer. Only the complainant appeared on October 2, 1978 at which time he presented testimony, exhibits and argument on the complaint. Based upon such evidence, Commissioner Lahey prepared a Report of Hearing Officer, dated November 3, 1978, which Report was considered by the Commission at its special meeting of November 29, 1978. The Commission did not adopt the aforesaid Report at its meeting of November 29, 1978, but rather, granted the respondents' motion to reopen the hearing on this matter,

The matter was subsequently heard on January 5, 1979 before Commissioner Friedman as Hearing Officer, at which time both 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 within the meaning of §1-18a(a), G.S.
2. The respondent board met on June 21, 1978 to consider, among other things, applications for variance, two of which were brought by All Haven Transmission, Inc. and Speedy Muffler King.
3. At such meeting there was a hearing in which presentations were made to the respondent board both for and against the aforesaid two applications.
4. The complainant herein spoke in opposition to the respondent board's granting the aforesaid two applications.
5. Also at such meeting, the respondent board discussed and voted to grant the two applications in question.
6. By letter filed with the Commission on July 28, 1978, the complainant alleged, in pertinent part, that he was wrongfully excluded from that portion of the respondent board's June 21, 1978 meeting in which it considered and acted upon the aforesaid applications.

7. At the close of the hearing on the aforesaid applications, both the complainant and the complainant's business partner were told by certain members of the respondent board to leave the meeting room.

8. All other members of the public who were present in the meeting room at such time also left with the complainant. The complainant and his business partner were the last to leave the meeting room.

9. Such departure of the public occurred prior to the respondent board's commencement of its discussions and votes on the variance applications that were before it.

10. During such discussions and votes a huge number of people were congregated near an open door immediately outside the meeting room.

11. Although the presence of such a large number of presumably interested people in an outside hallway was easily seen from within the meeting room by all members of the respondent board present, not a single member of the respondent board invited the public to reenter the room.

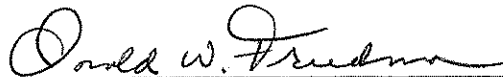
12. The minutes of such discussions and votes were entitled the "Minutes of Executive Session...."

13. It is concluded that the complainant was wrongfully denied his right to attend such discussions and votes at a public meeting as required by §1-21, G.S.

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

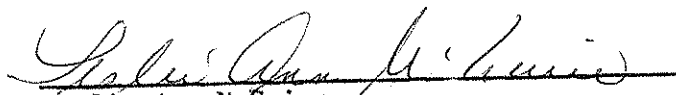
1. All votes of the respondent board taken on June 21, 1978 relating to the applications for variance brought by All Haven Transmissions, Inc. and Speedy Muffler King are hereby declared null and void.

2. Henceforth, all meetings of the respondent board shall be open to the public as required by §1-21, G.S.



Commissioner Donald Friedman
as Hearing Officer

As approved by Order of the Freedom of Information Commission
on March 28, 1979



Leslie Ann McGuire
Acting Clerk of the Commission