

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Ann Bove,

Complainant

Report of Hearing Officer

against

Docket #FIC78-239

Town of Wolcott; and Town
Council of the Town of
Wolcott,

March 12 , 1979

Respondents

The above captioned matter was heard as a contested case on January 22, 1979, at which time the complainant and respondents appeared, stipulated to certain facts 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. On November 2, 1978, the respondent council held a public hearing on the proposed town budget.
3. At the conclusion of the public hearing the members of the respondent council voted unanimously to go into executive session to consider the town budget pursuant to §703 of the Town of Wolcott Charter.
4. During the aforesaid executive session the council discussed what had transpired at the public hearing and voted to table action on the budget until November 14, 1978.
5. By letter filed with this Commission on November 27, 1978, the complainant alleged that the aforesaid executive session was held for an improper purpose within the meaning of §1-18a(e), G.S.
6. The complainant further alleged that an improper vote was taken at the aforesaid executive session.
7. The respondent council claimed that the aforesaid executive session was specifically authorized by §703 of the town charter.
8. The respondent council further claimed authorization for an executive session pursuant to §7-344, G.S. because, it claimed, the council, while considering the budget, was acting as a board of finance.

9. §7-344, G.S. authorizes a town board of finance to hold an executive session after a public hearing on a proposed town budget.

10. §7-340, G.S. sets forth the method by which a town may establish a board of finance.

Any town may, at any annual or special meeting, warned and held for that purpose, vote to establish a board of finance.... All rights and powers conferred and duties and obligations imposed by the general statutes upon boards of finance shall be held to be conferred or imposed upon each board of finance as soon as it is established under the provisions of this chapter.

11. §306 of the respondent town's charter states:

The [town] Council shall have control of the finances of the Town and may, at its discretion, appoint a Finance Committee of which at least one member shall be a member of the Council. The duties of this Committee shall be as directed by the Council.

12. §703 of the respondent town's charter states:

The [town] Council shall, after such public hearing [on the proposed town budget], hold an executive session at which it shall consider the budget so presented....

13. It is found that the executive session requirement of §703 of the respondent town's charter is in conflict with §1-18a(e), G.S. which limits executive session to the named exceptions, a discussion of a proposed town budget not being one of the named exceptions.

14. It is concluded that §1-18a(e) and §1-21 supercede §7-3 of the respondent town's charter.

15. It is found that the respondent council is not a board of finance as defined in §7-340, G.S. because the respondent town has not followed the procedures required by statute to establish a board of finance.

16. It is found that a finance committee established by the respondent town council pursuant to §306 of the town's charter would also fail to meet the requirements for establishing a board of finance as set forth at §7-340, G.S.

17. It is found that the authorization to hold an executive session pursuant to §7-344, G.S. is limited to boards of finance as defined in §7-340, G.S.

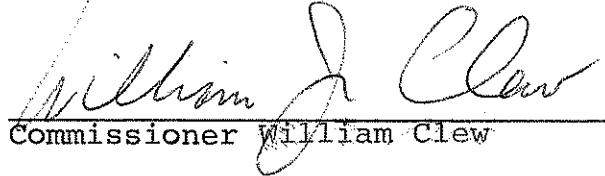
18. It is concluded, therefore, that the respondent council is not a board of finance and is not entitled to claim exemption under §7-344, G.S. from the requirements of the Freedom of Information Act.

19. It is further concluded that the respondent council went into executive session on November 2, 1978, in violation of §1-21, G.S., discussion of a proposed town budget not being a proper purpose for an executive session set forth at §1-18a(e), G.S.

20. As the executive session itself has been found to be unlawful, it is not necessary to decide the question of whether the vote taken during such executive session was permitted by §1-18a(e), G.S.

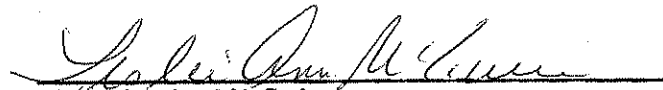
The following order by the Commission is hereby recommended on the basis of the record concerning the above captioned complaint:

1. The respondent town council shall henceforth comply with the requirements of §1-21, G.S. and §1-18a(e), G.S.


Commissioner William Clew

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