

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Elizabeth V. Varcoe,
Complainant

Report of Hearing Officer

against

Docket #FIC78-255

Town of Redding; and Board of
Finance of the Town of Redding,
Respondents

February 4, 1979

The above captioned matter was heard as a contested case on February 5, 1979, at which time the complainant and the 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 as defined by §1-18a(a), G.S.
2. By letter of complaint filed with the Commission on December 22, 1978, the complainant alleged that the respondent board convened improperly in executive session during its December 11, 1978 meeting.
3. During the public portion of its December 11, 1978 meeting, the respondent board voted unanimously to convene in executive session "for the purpose of discussing personnel matters."
4. In addition to the members of the respondent board, the following persons were also in attendance throughout the entire executive session in question: the first selectman, the two other selectmen and the comptroller of the respondent town, and the employee who acts as recording secretary for the respondent board.
5. The complainant contends that the respondent board's vote to convene in executive session did not comply with the requirements of §1-21 and §1-18a(e), G.S.
6. §1-21, G.S., provides, in part, that an agency may hold an executive session upon a two-thirds affirmative vote of its members present and voting, taken at a public session, and stating as the reason therefor one or more of the purposes set forth in §1-18a(e), G.S.
7. §1-18a(e)(1), G.S. does not extend to all "personnel matters," but only to discussions of those matters specifically stated in that section.
8. It is therefore found that the respondent board's vote to convene in executive session during its December 11, 1978 meeting

did not set forth a proper purpose for such a session, in accordance with §§ 1-21 and 1-18a(e), G.S.

9. The complainant further contends that the respondent board violated §1-21g, G.S., by allowing persons other than agency members to remain in attendance during the entire executive session in question and therefore to remain beyond the period for which their presence was necessary to present testimony or opinion concerning the subject of such session.

10. It is found that the first selectman of the respondent town is a member ex-officio of the respondent board. Consequently, his attendance throughout the entire executive session in question was proper under §1-21g, G.S.

11. It is further found that the recording secretary's presence during the entire executive session in question was unnecessary because the stated purpose of such session was limited to discussion from which the public was excluded. Consequently, her attendance at the executive session was improper under §1-21g, G.S.

12. The entire executive session in question lasted only 18 minutes and the evidence presented at hearing was insufficient to establish whether the attendance of the other persons identified in paragraph 4, above, was properly limited in accordance with §1-21g, G.S.

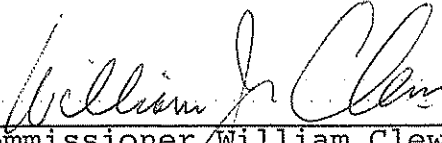
13. The complainant failed to prove that the respondent board took any action during the executive session in question.

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

1. Henceforth, the respondent board shall vote to convene in executive session in strict compliance with the provisions of §1-21, G.S., and shall so convene only for the specific purposes set forth in §1-18a(e), G.S.

2. Henceforth the respondent board shall limit attendance at its executive sessions to its members and to those persons invited pursuant to §1-21g, G.S. Invited non-members of the respondent board shall attend such sessions only for the period permitted under §1-21g, G.S.

3. Nothing in this decision shall be construed as implying anything but a good faith effort by the parties hereto to understand and implement the requirements of the Freedom of Information Act.


Commissioner William Clew

as Hearing Officer