

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Edward F. Gertsch, Sr.; and
East Haven Fire Fighters Local
No. 1205,

Complainants

Report of Hearing Officer

against

Docket #FIC79-109

Town of East Haven; and Board
of Fire Commissioners of the
Town of East Haven,

November 14, 1979

Respondents

The above captioned matter was heard as a contested case on October 30, 1979, at which time the complainants 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 defined by §1-18a(a), G.S.

2. By letter filed with the Commission on May 21, 1979, the complainants alleged that the respondents violated the Freedom of Information Act in certain respects and denied them access to certain public records.

3. It is found that the respondent board does not have a regular office or place of business and is therefore required by §1-19(a), G.S., to maintain its public records, including the minutes of its meetings, in the office of the town clerk of the respondent town.

4. It is also found that the respondent board failed to file minutes of its meetings, including the minutes of its January, February and March 1979 meetings, in the town clerk's office within the time period required by §1-21, G.S.

5. Furthermore, it is found that as of the date of the hearing on this complaint, the minutes of the respondent board's February 26, 1979 meeting have not been made available to the complainants and the public, in violation of §1-21, G.S.

6. At the April 30, 1979 meeting of the respondent board, the complainants requested access to the list of names of the employees of the respondent town's fire department who used sick time during the month of April 1979, along with the number of sick days consumed by each such employee during that month.

7. At the same meeting, the complainants also requested any records of disciplinary action taken by the respondent board against the fire chief of the respondent town as a result of his involvement in automobile accidents during September 1976 and May 1977 while driving an official vehicle.

8. Both of the foregoing requests were denied by the chairman of the respondent board.

9. It is found that the records described in paragraphs 6 and 7, above, relate directly to the conduct of the public's business, and consequently, the disclosure of such records is found not to constitute an invasion of the personal privacy of the public employee and official concerned.

10. It is therefore concluded that the records described in paragraphs 6 and 7, above, are public records and are not exempt from disclosure pursuant to any provision of §1-19(b), G.S.

11. At the hearing on this complaint, the complainants made allegations that they were denied access to certain alarm and fire marshall's reports in violation of the Freedom of Information Act. They also alleged that the respondent board failed to keep adequate minutes with respect to its meeting at which the grievance of the complainant Gertsch was discussed. Since these allegations do not fall explicitly or fairly within the scope of the complaint as filed with the Commission, it is found that the Commission lacks jurisdiction to consider them at this time.

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 make the minutes of its meetings available to the public, in strict compliance with the provisions of §§1-21 and 1-19(a), G.S.


2. Within seven days of receipt of the notice of final decision herein, the respondent board shall make available to the complainants and the public the minutes of such board's February 26, 1979 meeting, in accordance with the provisions of §§1-21 and 1-19(a), G.S.

3. The respondent board shall forthwith provide the complainants with a copy of the records described in paragraphs 6 and 7 of the above findings. If no record exists of the disciplinary action described in paragraph 7 of the above findings, the respondent board shall forthwith provide the complainants with an affidavit attesting to such fact and setting forth the specific nature of the disciplinary action, if any, that was taken.



Commissioner William J. Clew
as Hearing Officer

Approved by order of the Freedom of Information Commission on
November 28, 1979.


Leslie Ann McGuire
Clerk of the Commission