

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Citizen's Participation Committee,

Report of Hearing Officer

Docket #FIC81-41

Complainant
against

June 4, 1981

The City of Hartford and the City
Council of the City of Hartford,

Respondents

The above captioned matter was heard as a contested case on March 27, 1981 and thereafter continued to March 30, April 6, and April 10, 1981, at which times 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. The complainant committee is an association of individuals, an agency of the respondent city and a "person" as defined in §1-18a(c), G.S.
3. By letter filed with the Commission on March 10, 1981, the complainant committee alleged that on or about February 23, 1981, the respondent council violated §1-21, G.S., by conducting a meeting that was not open to the public and for which there was no advance public notice.
4. By motion dated March 27, 1981, the respondents sought: first, to disqualify as parties certain persons named as "co-complainants" in the complaint; second, to disqualify the complainants' attorneys; and third, to disqualify as a party the complainant committee.
5. At the hearing on this complaint, the complainants' attorneys moved to be made pro se complainants in this matter.
6. It is found that the complainant committee is the only party in this matter to have perfected its appeal to the Commission in accordance with §1-21i, G.S.
7. It is also found that the Commission lacks jurisdiction either to disqualify the complainant committee as a party, or to disqualify its attorneys from participating in these proceedings.
8. The respondent council is composed of nine members, of which five members constitute a quorum for purposes of §1-18a(b), G.S.

9. On February 23, 1981, starting at approximately 1:30 p.m., respondent council members O'Connell and Cunnane, republicans, and Martin and Ludgin, democrats, met in the latter's private law offices to discuss, and seek a consensus for, the allocation of the respondent city's seventh year federal Community Development Block Grant (CDBG) funds for fiscal year 1981-82. Also present was the city chairman of the Republican Party.

10. During the meeting in Councilman Ludgin's offices, the four council members present reviewed, line by line, the applications for funding submitted by various individuals and organizations, and ultimately reached a consensus as to how the respondent council should allocate all 6.45 million dollars of the CDBG funds.

11. It was tacitly understood among the four council members present that their consensus was conditioned upon a fifth council member, Gonzalez, joining the consensus to form a majority of the respondent council sufficient to ensure passage of their plan for the allocation of the CDBG funds.

12. During the aforesaid meeting, Councilman Gonzalez telephoned Councilman Ludgin who informed him that the council members present could not talk with him at that time because to do so would constitute a violation of the Freedom of Information Act.

13. After the two republican council members, O'Connell and Cunnane, and their party chairman, left the meeting, Councilman Gonzalez, a democrat, arrived; and after reviewing and discussing with the remaining two council members the applications and the allocations agreed upon, Councilman Gonzalez joined the consensus.

14. On the evening of February 23, 1981, the respondent council held a public meeting at which Councilman Gonzalez and three of the four council members who participated in the afternoon meeting each offered a resolution as to how various portions of the respondent city's CDBG funding should be allocated.

15. The respondent council adopted all four of these resolutions during the aforesaid public meeting.

16. All five council members present at Councilman Ludgin's offices during the afternoon of February 23, 1981 voted in favor of each of these resolutions.

17. During the public meeting of February 23, 1981, council members who were not present at Councilman Ludgin's offices earlier, offered several amendments to these resolutions, all of which were defeated by the negative votes of the majority who were present at the earlier meeting.

18. It is found that the aforesaid resolutions, when viewed together, executed the entire consensus or agreement arrived at by the five council members who were present at Councilman Ludgin's offices during the afternoon of February 23, 1981, and were a mere formalization of that consensus or agreement.

19. The respondents contend that because a quorum of the respondent council was not present in the afternoon meeting place at any single instant, that meeting was not a "meeting" as defined by §1-18a(b), G.S.

20. It is concluded that the activities of the five council members who were present in Councilman Ludgin's offices during the afternoon of February 23, 1981 constituted a "meeting," of the respondent council, as defined by §1-18a(b), G.S., in that they constituted a "communication by or to a quorum of a multi-member public agency . . . to discuss or act upon a matter over which the public agency has supervision, control, jurisdiction, or advisory power."

21. The respondents further contend that because council members Gonzalez, Martin and Ludgin were members of the same political party, their gathering on the afternoon of February 23, 1981 constituted a "caucus" as defined in §1-18a(b), G.S.

22. It is found that the discussion between council members Gonzalez, Martin and Ludgin constituted an attempt to forge a controlling majority of the respondent council with republican council members O'Connell and Cunnane, and was not a party caucus within the meaning of §1-18a(b), G.S. In this regard, other democratic members of the respondent council were not given notice of the meeting on the afternoon of February 23, 1981.

23. The respondent council conducted said meeting without notice to the public and without any opportunity for public access, in contravention of §1-21, G.S.

24. The matters discussed and the decision reached at the afternoon meeting of February 23, 1981 will significantly affect virtually every resident of the respondent city.

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

1. The respondent's motion of March 27, 1981, as described in paragraph 4 of the findings above, is hereby granted only to the extent of disqualifying the "co-complainants" as parties to this matter. In all other respects, said motion is denied.

2. The motion of the complainants' attorneys to be made pro se complainants in this matter as described in paragraph 5 of the findings above, is hereby denied.

3. All votes of the respondent council at its February 23, 1981 public meeting on the four resolutions, referred to in paragraphs 14-18 of the findings alone, are hereby declared null and void.

4. Henceforth, the respondents shall comply with the provision of §1-21, G.S.

Judith A. Lahey
Commissioner Judith A. Lahey
as Hearing Officer

Approved by order of the Freedom of Information Commission
at its regular meeting of July 8, 1981.

Wendy Paradis
Wendy Paradis