

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Donald L. Oat,

FINAL DECISION

Complainant

Docket #FIC83-27

against

July 21, 1983

Noank Fire District Zoning
Commission,

Respondent

The above captioned matter was heard as a contested case on May 2, 1983 at which time the complainant and the respondent appeared and presented testimony, exhibits and argument on the complaint.

After consideration of the entire record the following facts are found:

1. The respondent is a public agency within the meaning of §1-18a(a), G.S.
2. By letter of complaint filed with the Commission on February 21, 1983 the complainant alleged as follows regarding the respondent:
 - a) that on February 10, 1983 the complainant had requested " various public documents" which, with the exception of one item, had not been provided;
 - b) that a February 1, 1983 meeting of the respondent was illegal and;
 - c) that the respondent does not keep appropriate minutes and records and does not file them pursuant to §1-21, G.S.
3. The complainant requested that the Commission declare null and void the actions taken by the respondent at its February 1, 1983 meeting.
4. At hearing, the complainant alleged that a regular meeting held on January 18, 1983 was improper because the respondent's schedule of regular meetings had not been filed until January 4, 1983.
5. It is found, however, that the Commission has no jurisdiction to consider such allegation because the complainant's complaint was filed more than 30 days following the alleged violation.

6. It is found that by letter dated February 10, 1983, the complainant made a request of the respondent for the following:

- a) The rules and regulations under which the respondent operates;
- b) Minutes of the respondent's January 18, 1983 public hearing and records of any action taken at such meeting;
- c) Minutes and notice of the respondent's February 1, 1983 meeting;
- d) Copies of the agendas for the January 18, 1982 and February 1, 1983 meetings;
- e) Copies of the filed schedules of the respondent's regular meetings for 1982 and 1983;
- f) Copies of any notices of special or emergency meetings held during January or February, 1983.

7. The respondent did not become aware of the complainant's request until February 15, 1983 and at that time the chairman of the respondent told the complainant that everything would be sent as soon as possible. On February 25, 1983 the respondent sent to the complainant all available documents requested with the exception of the respondent's ordinance book. The respondent indicated to the complainant in a February 25, 1983 letter that copies of the ordinance book could be obtained from the zoning enforcement officer for a \$6.00 fee.

8. It is found that the respondent failed to prove that a 10 day delay constituted prompt access to the requested records within the meaning of §§1-15 and 1-19(a), G.S.

9. It is found, also, that the minutes of the respondent's February 1, 1983 and January 18, 1983 meetings were not placed on file until March 8, 1983, in violation of §1-21, G.S.

10. It is found that the notice of the respondent's February 1, 1983 special meeting, filed with the town clerk on January 25, 1983, read as follows:

"The Noank Fire District Zoning Commission will hold a Special Meeting on February 1, 1982 at 8:00 in the Noank Firehouse. The agenda will include the Donald Oat, Jr. proposal for 25 Church Street."

11. The complainant alleged that because the above notice read "February 1, 1982", it failed to provide notice to the public that a meeting would be held on February 1, 1983.

12. It is found that although the special meeting notice contained a typographical error, the intent of the notice was sufficiently clear to provide meaningful notice of the February 1, 1983 meeting.

13. The complainant also alleged that the respondent failed to provide him with personal notice of the February 1, 1983 meeting.

14. It is found, however, that the complainant had not requested notice of the respondent's meetings pursuant to §1-21 c, G.S.

15. It is therefore found that the respondent did not violate any provision of the Freedom of Information Act by failing to give personal notice to the complainant of its February 1, 1983 meeting.

16. The complainant also alleged at hearing that the respondent had failed to provide each of its members with written notice of the February 1, 1983 meeting pursuant to §1-21, G.S.

17. It is found, however, that such allegation was not raised in the complainant's appeal to this Commission. The Commission, therefore, declines consideration of such allegation.

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

1. Henceforth the respondent shall act in strict compliance with the requirements of §1-15 and §1-19(a), G.S. and with the requirements of §1-21, G.S. regarding the filing of minutes of public meetings.

Approved by order of the Freedom of Information Commission at its special meeting of July 8, 1983.



Mary Jo Jolicoeur
Clerk of the Commission