

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Eleanor J. Butler.

FINAL DECISION

Complainant

Docket #FIC83-69

against

Ocean Beach Park Board of the
Town of New London

March 28, 1984

Respondent

The above captioned matter was heard as a contested case on August 19, 1983 and again on September 23, 1983 at which times 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. The respondent held a regular meeting on April 14, 1983, during which it convened in executive session.

3. By letter of complaint filed with the Commission on April 21, 1983, the complainant alleged that she was denied access to the April 14, 1983 executive session, that no purpose for the executive session was stated, that there was no report as to any action that might have been taken in executive session, that the executive session was convened to discuss the bringing of charges and punitive actions against her, and that she was denied access to "pertinent paperwork" associated with the executive session.

4. Pursuant to §1-21i(b), G.S., the portions of the complaint alleging violations of the Act occurring more than thirty days prior to the filing of the complaint will not be considered by the Commission.

5. It is found that the subject of the executive session was not included in the agenda of the April 14, 1983 meeting, and that the respondent failed to vote by a 2/3 majority to consider and act upon non-agenda items, in violation of §1-21, G.S.

6. It is found that no purpose for the April 14, 1983 executive session was stated, in violation of §1-21, G.S.

7. It is found that while convened in executive session the respondent discussed grievances filed by the complainant against the respondent.

8. It is found that to the extent that the discussion in executive session related to strategy with respect to the grievances filed by the complainant with her collective bargaining unit, such executive session was held for a proper purpose within the meaning of §1-18a(e)(2), G.S.

9. It is found that to the extent that the discussion related to the employment, performance, evaluation, health or dismissal of the complainant, such executive session violated §1-18a(e)(1), G.S., the respondent having denied the complainant the opportunity to require that all such discussion be conducted in public session.

10. It is also found, however, that the respondent did not violate §§1-18a(e)(1), G.S. when it excluded the complainant from the executive session.

11. It is found that on February 24, 1983 the respondent held a meeting during which the complainant was questioned regarding allegations of behavior which the respondent deemed inappropriate.

12. By letter dated April 13, 1983 the complainant made a request of Robert Flanagan, the director of real estate of the respondent, for a copy of the questions posed by him on February 24, 1983 and copies of each charge brought against her "stemming from either the incidents of February 11, 1983 or any subsequent events directly or indirectly related thereto." The complainant further requested that any verbal charges be put into written form.

13. The Commission notes that nothing in the Freedom of Information Act requires an agency to record verbal statements as requested by the complainant.

14. By letter dated April 20, 1983, Mr. Flanagan informed the complainant that the material relating to the February 24, 1983 meeting was not available to her at that time, and that the remainder of the documents had already been provided to the complainant or did not exist in writing.

15. Following receipt of the complainant's complaint to this Commission, Mr. Flanagan on June 22, 1983 wrote to the complainant, asking her to contact him at her convenience to determine which documents she felt had been withheld.

16. By letter dated July 7, 1983 the complainant renewed her request for the documents referred to at paragraph 10, above, more specifically, documents relating to allegations of misconduct on her part.

17. On or about August 1, 1983 Mr. Flanagan forwarded several documents to the complainant in an attempt to comply with her request and asked her to contact him if she felt any documents had been omitted. By letter dated August 14, 1983 the complainant informed the respondent that she did not feel that her request had yet been complied with fully.

18. By letter dated August 15, 1983 the respondent offered to respond to requests for documents the complainant felt had not been provided.

19. It is found that the respondent violated §§1-15 and 1-19(a), G.S. when it failed to respond to the complainant's original request for records promptly upon request. It is found that the respondent failed to prove that the records which Mr. Flanagan refused to provide on or about April 20, 1983 were exempted from disclosure by any provision of the Freedom of Information Act.

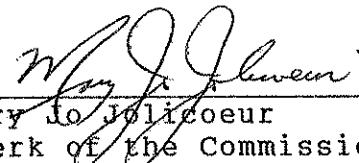
20. It is found, however, that the respondent has, to the best of its knowledge, provided all documents requested by the complainant. The complainant failed to offer any evidence of the existence of additional documents.

21. The Commission notes that allegations of the complainant relating to the preparation of the respondent's minutes of its April 14, 1983 meeting failed to allege a violation of the Act and will not, therefore, be considered 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 shall act in strict compliance with the requirements of §§1-15, 1-19(a) and 1-21, G.S.

Approved by order of the Freedom of Information Commission at its regular meeting of March 28, 1984.



Mary Jo Jolicoeur
Clerk of the Commission