

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
John Donahue,

FINAL DECISION

Complainant

Docket #FIC83-80

against

November 16, 1983

Windsor Locks Board of Fire
Commissioners,

Respondent

The above captioned matter was heard as a contested case on July 29, 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. The respondent held a meeting on April 13, 1983 during which it convened in executive session "to discuss custodial care of the Safety Complex." Upon convening the executive session the meeting was moved to the respondent's offices, away from the large room in which the meeting had been originally convened.

3. By letter of complaint filed with the Commission on May 9, 1983, the complainant alleged that following its executive session the respondent reconvened in public session, but did not return to the large meeting room and did not inform those in attendance that the executive session had concluded. The complainant further alleged that two individuals called into the meeting following the executive session were not mentioned in the meeting's minutes, and that the respondent discussed a custodian while in executive session, but that the custodian was not present and therefore "had no choice of an open meeting or closed."

4. It is found that on April 13, 1983 the respondent convened in executive session in its offices to discuss the employment or performance of a custodian.

5. Following the conclusion of the executive session at approximately 9:20 p.m., the respondent remained in its offices and continued the meeting until approximately 9:42 p.m.

6. It is found that following the executive session a member of the respondent, Mr. Gabrielson, was sent to the original meeting room to inform the public that the executive session was concluded, which he did. Mr. Gabrielson also asked a Mr. Hannigan to join the meeting.

7. It is found that at the conclusion of the executive session the complainant remained in the fire/police safety complex, so-called, but that he was not present in the meeting room when the announcement was made that the executive session had concluded, although Mr. Gabrielson passed the complainant on his way back to the meeting.

8. It is concluded that the respondent technically did not violate §1-21, G.S. in the conduct of the conclusion of the April 13, 1983 executive session, but that it would have been more in keeping with the spirit of the Freedom of Information Act if the respondent in line with its public service obligation had notified the complainant in passing that the executive session had concluded.

9. The respondent, however, failed to prove that it gave notice to the custodian in question that he might be discussed in executive session.

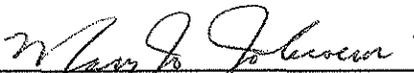
10. It is therefore found that the respondent violated §1-18a(e)(1) and §1-21, G.S., when it convened in executive session to discuss the custodian without so notifying him.

11. It is found that the respondent's failure to mention one or more persons attending the final public portion of its meeting did not constitute a violation of §1-21, G.S.

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 §§1-18a(e)(1) and 1-21, G.S.

Approved by order of the Freedom of Information Commission at its regular meeting of November 9, 1983.



Mary Jo Jolicoeur
Clerk of the Commission