

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by  
Lucille Malavenda,

FINAL DECISION-Supplemental  
Report of Hearing Officer

Complainant

Docket #FIC83-161

against

May 23, 1984

Meriden Housing Authority of the  
City and Town of Meriden,

Respondent

By final decision in the above-captioned case, rendered at a regular meeting held on February 8, 1984, the Commission ordered the respondent and the executive director of the respondent to appear before the undersigned hearing officer for the purpose of conducting a hearing pursuant to §1-21i(b), G.S. to determine whether a civil penalty against the respondent and its executive director should be assessed and if so, in what amount. Accordingly, a hearing was held on March 16, 1984, at which time the complainant and the respondents appeared and offered argument on the issue of a civil penalty.

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

1. Paragraphs 1 through 13 of the findings contained in the final decision adopted by the Commission in the above-captioned case at its February 8, 1984 meeting are hereby incorporated as if fully set forth herein.

2. The respondent claims that it made a good faith effort to comply with the requirements of the Freedom of Information Act; that although notice of the July 27, 1983 meeting was given less than 24 hours prior to the meeting, notices were sent not only to commissioners but to media and tenants associations.

3. The respondent claims that it cannot account for the fact that the complainant, a commissioner of the respondent, received no notice of the meeting, since its chairman "was told" that all notices of the meeting were mailed at the same time.

4. The respondent also claims that its members were not aware that they were violating the Freedom of Information Act when they considered and acted on matters not included in the notice of the special meeting.

5. The respondent ascribes the lack of any representation at the Commission's original hearing in this matter to confusion within the authority due to the resignation of its executive director, inasmuch as the complaint and the resignation were discussed at the same meeting.

6. Finally, the respondent claims that commissioners of the respondent are not so involved with the mechanics of the housing authority as to be held accountable for failure to comply with the Act, and that responsibility for compliance falls upon the executive director of the respondent, Robert McNulty.

7. The executive director of the respondent claims that he is without power to call, postpone or cancel meetings, and that in any event, he was out of town on the day the meeting was scheduled.

8. The executive director further claims that his retirement did not create such confusion as to obfuscate the issue of the complainant's complaint to this Commission; the discussion of the complaint was completed prior to the announcement of Mr. McNulty's retirement.

9. It is found that the chairman of the respondent, James Neckerman, called the July 27, 1983 meeting and was responsible for ensuring that the requirements of the Freedom of Information Act were met.

10. Mr. Neckerman must be presumed to be familiar with the notice requirements of the Freedom of Information Act, having previously been before this Commission regarding FIC82-189, Lucille C. Malavenda v. Tract 1701 Recovery Committee of the Meriden City Council, et al. as a member of the Tract 1701 Committee. In that case this Commission found that the members of the 1701 Committee "exhibited a disregard for the open meetings law which does a great disservice to the people of Meriden."

11. The respondent offered no persuasive explanation for its failure to comply with the requirements of the Freedom of Information Act regarding the notice and conduct of the July 27, 1983 meeting.

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

1. Pursuant to §1-21i(b), G.S., a civil penalty of \$500 is hereby imposed against James Neckerman, Chairman of the respondent.

Approved by order of the Freedom of Information Commission at its regular meeting of May 23, 1984.

  
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Mary Jo Jolicœur  
Clerk of the Commission