

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Janet Koch and the Jackson
Newspapers,

FINAL DECISION

Complainants

Docket #FIC84-122

against

Commission on Equal Opportunities,
City of New Haven,

November 14, 1984

Respondent

The above captioned matter was heard as a contested case on September 6, 1984 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. At a meeting held on June 13, 1984 the respondent convened in executive session to consider whether to rescind an earlier decision to penalize a certain contractor.
3. As a result of the June 13, 1984 executive session the respondent decided not to rescind its earlier decision to penalize the contractor.
4. By letter of complaint filed with the Commission on July 10, 1984 the complainant alleged that the June 13 executive session was held for an improper purpose, in violation of §§1-18a(e) and 1-21, G.S. The complainant requested that the actions of the respondent be declared null and void and that the respondent be required to issue a detailed description of the discussion and action at the executive session.
5. At hearing, the respondent claimed that because a hearing on the complaint had not been held within 20 days of filing, the Commission lacked jurisdiction to hear the complaint, pursuant to §1-21i(b), G.S.
6. The language of §1-21i(b), G.S. regarding the holding of a hearing within 20 days being directory and not mandatory, it is concluded that the Freedom of Information Commission has jurisdiction to consider the complaint.

7. The respondent admitted error in not stating any purpose when voting to convene the executive session, but claimed that the "predecisional discussions" held were a proper purpose for the executive session, since the recording of the thought processes involved in reaching a decision would constitute a record exempted from disclosure.

8. It is found that the respondent failed to prove that the June 13 discussion would have resulted in the disclosure of either any public record exempted from disclosure by §1-19(b), or the information contained in any exempt record.

9. It is therefore concluded that the June 13 executive session was not held for a proper purpose within the meaning of §1-18a(e)(5), G.S.

10. It is also found that the respondent failed to prove that it convened in executive session for any other proper purpose within the meaning of §1-18a(e), G.S.

11. It is concluded that the respondent violated §1-21(a), G.S. when it convened in executive session on June 13, 1984 to discuss whether to rescind an earlier decision to punish a certain contractor.

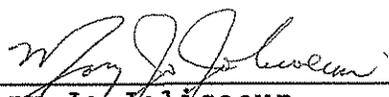
12. Under the circumstances, the Commission declines to declare null and void the actions of the respondent on June 13 or to order other relief requested by the complainant.

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 convene in executive session only for one or more of the proper purposes described at §1-18a(e), G.S.

2. The Commission notes that the respondent's claim that all "predecisional discussions" may properly be held in executive session evidences a basic misunderstanding of the goals of the Freedom of Information Act. The Commission suggests that the respondent familiarize itself with not only the language, but the intent, of the Act.

Approved by order of the Freedom of Information Commission at its regular meeting of November 14, 1984.



Mary Jo Jolicoeur
Clerk of the Commission