

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Seaside Beach Association,

FINAL DECISION

Complainant

Docket #FIC84-139

against

December 20, 1984

Zoning Board of Appeals of the
Town of Westbrook,

Respondent

The above captioned matter was heard as a contested case on November 2, 1984 at which time the complainant and the respondent appeared and presented testimony, exhibits and argument on the complaint.

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

1. The respondent is a public agency within the meaning of §1-18a(a), G.S.

2. On June 22, 1984 the respondent held a regular meeting, conducted in part as a public hearing, to consider variance requests, among them request #84-29.

3. On June 24, 1984 the respondent conducted an on-site inspection with respect to request #84-29. Following the inspection the members of the respondent gathered at the town hall and voted to approve the variance request.

4. By letter of complaint filed with the Commission on July 24, 1984 the complainant alleged that at the June 22, 1984 meeting the respondent purported to adjourn its meeting to June 24, 1984, but that no notices of such adjournment were posted as required by §1-21d, G.S. The complainant requested that the respondent's action be invalidated.

5. At hearing the respondent moved to dismiss the complaint on the grounds that it was not timely.

6. The complainant's complaint having been filed within 30 days of the June 24, 1984 meeting, as required by §1-21i(b), G.S., the respondent's motion to dismiss on that ground was denied.

7. At hearing the respondent also moved to dismiss the complaint on the ground that the complainant, having filed an appeal in Superior Court of the respondent's decision, had waived the right to proceed before the Commission, which motion was denied.

8. The respondent concedes that it posted no notice of the June 24, 1984 gathering but claims that it did not violate §1-21d, G.S. because it did not adjourn the June 22, 1984 meeting to June 24, 1984.

9. It is found that the June 24, 1984 on-site inspection and subsequent gathering of the respondent constituted a hearing or other proceeding of the respondent to discuss or act upon a matter over which the respondent has supervision, control, jurisdiction or advisory power.

10. It is concluded that the gathering of the respondent on June 24, 1984 was a meeting as defined in §1-18a(b), G.S.

11. It is found that the respondent's regular meetings are held on the fourth Friday of every month.

12. It is concluded that June 24, 1984, a Sunday, was not a regular meeting date for the respondent within the meaning of §1-21(a), G.S.

13. It is found that on June 22, 1984 the respondent did not take action to adjourn the meeting to a later date within the meaning of §1-21d, G.S.

14. It concluded that the June 24, 1984 meeting was a special meeting within the meaning of §1-21(a)

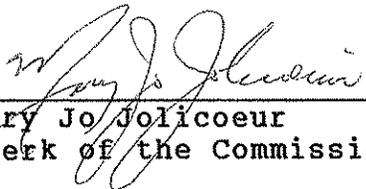
15. It is further found that the respondent provided no public notice of any kind of the June 24, 1984 inspection or of the gathering which followed the inspection.

16. It is concluded that the respondent violated §1-21(a), G.S. when it failed to provide public notice of its June 24, 1984 meeting.

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

1. The Commission hereby declares null and void the respondent's June 24, 1984 action regarding variance request #84-29.

Approved by order of the Freedom of Information Commission at its regular meeting of December 12, 1984.



Mary Jo Jolicoeur
Clerk of the Commission