

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Ox Yoke Wood Haven Association

FINAL DECISION

Complainant

Docket #FIC 84-142

against

June 12, 1985

Planning Commission of the
Town of Berlin; and Inland Wetlands
Commission of Town of Berlin

Respondents

The above captioned matter was heard as a contested case on October 12, 1984 at which time the complainant and the respondents appeared, stipulated as to certain facts, and presented testimony, exhibits and argument on the complaint. The hearing was consolidated with contested cases #FIC84-148, 84-151, 84-158 and 84-170.

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

1. The respondents are public agencies within the meaning of §1-18a(a), G.S.

2. By letter filed with the Commission on July 27, 1984, the complainant alleged the respondent Inland Wetlands Commission failed to file the agenda for its regular meeting of July 5, 1984 until the morning of July 5, 1984, and failed to file minutes of the meeting within 7 days.

3. It is found that the respondent Commission maintains a regular office in the town hall.

4. It is found that the agenda for the respondent Commission's meeting of July 5, 1984 was not filed until the morning of July 5, 1984.

5. It is concluded that the respondent Inland Wetlands Commission violated §1-21(a), G.S., by failing to file the agenda for its July 5, 1984 meeting at least twenty-four hours before the meeting.

6. It is found that the agenda of the July 5, 1984 meeting was publicized by newspaper notice and that there was a large public turnout for the meeting.

7. It is found that the respondent Commission denied the complainant access to the July 5, 1984 minutes on or about July 12, 1984 because the respondent's agent, the Deputy Director of Public Works, believed that he had a duty first to file the minutes with the Town Clerk.

8. It is concluded that the respondent Inland Wetlands Commission violated §1-21(a), G.S., by failing to make the minutes of its July 5, 1984 meeting available for public inspection within seven days of the meeting.

9. The complainants further alleged that the respondent Planning Commission failed to file the minutes of its July 10, 1984 meeting within seven days; failed to file a record of votes within 48 hours; and that, when filed, the record of votes was incomplete.

10. It is found that the record of votes and minutes of the the respondent Planning Commission's July 10, 1984 meeting were available for public inspection in handwritten form within the time requirements of §1-21(a), G.S.

11. It is found that the minutes of the respondent Commission's July 10, 1984 meeting failed to record the votes of each member of the respondent Commission on four motions under Agenda Item 5. However, the minutes noted the name of the members who moved and seconded each motion, and that the respondent Commission "voted to approve" each motion.

12. It is concluded that the respondent Commission violated §1-21(a), G.S., by failing to record in the minutes the votes of each member as noted in paragraph 11.

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

1. Henceforth, the respondent Inland Wetlands Commission shall file agendas and shall make minutes and records of votes available as required by §1-21(a), G.S.

2. Henceforth, the respondent Planning Commission shall comply with the requirements of §1-21(a), G.S., by recording the votes of each member upon any issue. It is noted that a unanimous vote may be recorded "unanimous" because the minutes record the names of the agency members in attendance.

3. The minutes of the July 10, 1984 meeting of the respondent Planning Commission shall be amended to record the votes of each member on each motion or to record that the votes were unanimous.

Approved by order of the Freedom of Information Commission at its regular meeting of June 12, 1985.



Mary Jo Jolicoeur
Clerk of the Commission