

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Michael F. Rizzuti

FINAL DECISION

Complainant

Docket #FIC 84-178

against

February 27, 1985

Naugatuck Police Commission and
Town of Naugatuck

Respondents

The above captioned matter was heard as a contested case on December 14, 1984 at which time the complainant and the respondents appeared, stipulated as to certain facts and presented testimony, exhibits and argument on the complaint.

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. The complainant moved to disqualify the counsel for the respondents, Attorney Gerald Noonan, on the grounds that he is a member of the Connecticut House of Representatives, which, pursuant to §1-21j, G.S., may advise and consent to the appointment of members of the Commission.

3. It is concluded that §1-21j, G.S., does not prohibit Attorney Noonan from representing the respondents before the Commission, and thus the motion to disqualify is denied.

4. By letter filed with the Commission on August 7, 1984, the complainant alleged that the respondents failed to post notices for a 5 p.m. special meeting and a 7 p.m. regular meeting held on July 26, 1984 on the first floor bulletin board in the town hall. The complainant also alleged that the Acting Police Chief was not allowed in the executive session at the 5 p.m. meeting in violation of the respondent board's regulations and the Connecticut Special Act which created the respondent board.

5. It is found that notice of the 5 p.m. special meeting was posted in the borough clerk's office in compliance with the provisions of §1-21, G.S.

6. It is found that the agenda of the 7 p.m. regular meeting was posted in the borough clerk's office, although §1-21, G.S., does not require that the agenda of a regular meeting be posted.

7. It is found that no notice of either the 5 p.m. or the 7 p.m. meeting was posted on the bulletin board on the first floor of the town hall, but that nothing in the Freedom of Information Act (F.O.I.A.) requires such posting.

8. It is found that the respondent board met in executive session at the 5 p.m. meeting and excluded the Acting Chief from the executive session.

9. Pursuant to §1-21g, G.S., only the members of a public agency may attend executive sessions, along with persons invited by the agency to present testimony or opinion.

10. Pursuant to section 2 of Conn. Special Act 321 (1953), the Police Chief is not a member of the respondent board, notwithstanding section 12 of Special Act 321 which states that the Chief "shall sit in on all meetings of the respondent."

11. Section 12 of Special Act 321 does not supersede the requirements of §1-21g, G.S.

12. Section 12 of the regulations of the respondent board provide that the Police Chief shall sit in on all meetings of the respondent board.

13. Regulations of the respondent board do not supersede the requirements of §1-21g, G.S.

14. It is concluded that the respondent board did not violate the F.O.I.A. by excluding the Acting Chief from the executive session at the 5 p.m. special meeting on July 26, 1984.

15. At the hearing on this complaint, the complainant alleged that the respondent board conducted illegal votes in the executive session at the 5 p.m. meeting on July 26, 1984.

16. It is concluded that the complaint letter did not fairly apprise the respondents of the allegation set forth in paragraph 15 and that, pursuant to §4-177, G.S., the allegation may not be considered in these proceedings.

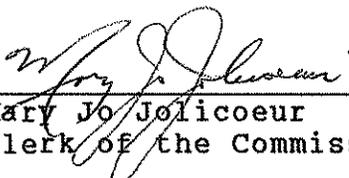
17. Though not alleged in the complaint, it is noted that the purpose of the executive session was to review the oral test scores for candidates for police chief and that this may not have been a proper purpose for an executive session pursuant to §1-18(a)(e), G.S.

18. Though not alleged in the complaint, it is noted that at the 7 p.m. regular meeting, the respondent board considered and acted upon the appointment of a new police chief under an agenda item listed as "Old Business." This agenda item may have been insufficient to notify the public that the appointment of the police chief would be considered and acted on at the meeting, in 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. The complaint is hereby dismissed.
2. It is strongly recommended that the respondent town schedule a workshop on the requirements of the F.O.I.A. for members of town boards and town employees.

Approved by order of the Freedom of Information Commission at its regular meeting of February 27, 1985.



Mary Jo Jolicoeur
Clerk of the Commission