

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by FINAL DECISION

Mary K. Katz and Herbert C. Hallas

Complainants

Docket #FIC 85-60

against

Robinson, Robinson & Cole

October 23, 1985

Respondent

The above captioned matter was heard as a contested case on May 17, 1985 at which time the complainants and the respondent appeared and presented testimony, exhibits and argument on the Motion to Dismiss which was filed by the respondent.

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

1. On February 12, 1985 the complainants requested by letter the opportunity to inspect certain records in the possession of the respondent.
2. The complainants were denied access on February 20, 1985.
3. On March 5, 1985 the denial was appealed to the Commission.
4. The proceedings were limited to consideration of the Motion to Dismiss which was filed by the respondent alleging that the Commission lacked jurisdiction over the complaint because the respondent is not a public agency.
5. Whether the respondent is the functional equivalent of a public agency and therefore a public agency within the meaning of §1-18a(a), G.S. depends in part on the extent of the governmental involvement which can be analyzed here by examining certain criteria utilized by the Supreme Court in Trustees of Woodstock Academy v. Freedom of Information Commission, 181 Conn. 544 (1980).
6. The criteria examined by the Supreme Court on that case are: (1) whether the entity was created by government; (2) the extent of government involvement or regulation; (3) the level of government funding; and (4) whether the entity performs a government function.

7. The complainants allege that the respondent satisfies the Woodstock criteria and that it is a public agency within the meaning of §1-18a(a), G.S.

8. The named respondent is a law firm.

9. The complainants claim that the respondent, as bond counsel for the Town of Windsor, is created by government because of requirements stated at §7-373, G.S., because the respondent firm is designated bond counsel in a town ordinance, and because individual members of the firm could not have entered the legal profession without governmental approvals.

10. §7-373, G.S. provides in relevant part that the certification endorsed upon each municipal bond shall include the name of the attorney at law who has rendered an opinion on the legality of the particular issue.

11. The respondent is designated bond counsel in a town ordinance.

12. The function of bond counsel is the issuance of an independent opinion of the validity of a municipal bond issue.

13. It is found that there is governmental regulation of the entrance of individuals into the legal profession.

14. It is found, however, that the evidence produced was insufficient to prove that the respondent law firm or the services it renders as bond counsel were created by government.

15. It is further found that there was no evidence that the activities of the respondent as bond counsel were regulated or controlled in a manner different from the regulation generally applicable to the legal profession as a whole.

16. The respondent is paid by the Town of Windsor for the services it renders as bond counsel.

17. It is found that the services of the respondent are government funded only in the limited sense that the services of any independent contractor which are purchased by a municipality are purchased with municipal funds.

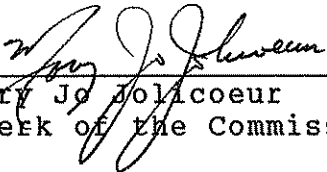
18. It is found that the respondent does not perform a governmental function.

19. It is concluded that the respondent is not a public agency within the meaning of §1-18a(a), G.S.

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

1. The above captioned complaint is hereby dismissed.

Approved by order of the Freedom of Information Commission at its regular meeting of October 23, 1985.



Mary Jo Jolicoeur
Clerk of the Commission