

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by FINAL DECISION

LOUIS D'ONOFRIO, JR.,

Complainant

against

Docket No. FIC 85-219

WEST HAVEN BOARD OF POLICE
COMMISSIONERS,

Respondent

August 13, 1986

The above captioned matter was heard as a contested case on January 24, 1986, 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. By letter of complaint filed with the Commission on October 23, 1985, the complainant, who has on file with the respondent a request for notices of all meetings, alleged that on October 15, 1985, the respondent held a meeting without notice to the public or to him and that at such meeting the respondent convened in executive session without a proper vote to do so. The complainant asked that the Commission impose a civil penalty against the chairman of the respondent in the amount of \$500.00.
3. It is found that the October 15, 1985, meeting of the respondent was the second of three meetings involving a police officer's disciplinary hearing. Notices of the first and last meetings were provided, but the respondent failed, through an oversight, to provide any notice of the second meeting. No action was taken at the October 15, 1985, meeting.
4. It is found that the respondent violated §§1-21(a) and 1-21c, G.S. when it failed to provide notice to the public and to the complainant of its October 15, 1985, meeting.
5. The respondent conceded that the entire meeting was held in executive session, but failed to prove that it properly voted to convene in executive session, as required by §1-21(a), G.S.
6. The complainant, in support of his request for the imposition of a civil penalty, cited four earlier cases he has brought successfully to this Commission against the respondent.

7. It is found that the circumstances surrounding the October 15, 1985, meeting indicate an administrative error, rather than an intention to circumvent the requirements of the Freedom of Information Act. Furthermore, the frequency with which the complainant has successfully pursued complaints against the respondent may well be considered at least as much a tribute to the complainant's vigilance and familiarity with the Act as it is an indication of a pattern of noncompliance with the Act.

8. It is concluded that despite the respondent's history with the Commission, the imposition of a civil penalty is not appropriate in the present case.

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

1. The respondent shall henceforth act in strict compliance with the requirements of §§1-21(a) and 1-21c, G.S.

Approved by order of the Freedom of Information Commission at its regular meeting of August 13, 1986.


Karen J. Haggett
Clerk of the Commission