

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by FINAL DECISION

Severino Rinaldi and the
Naugatuck Daily News,

Complainants

against

Docket #FIC 85-263

Mayor, Board of Burgesses and
Board of Finance of the
Borough of Naugatuck

Respondents

August 13, 1986

The above-captioned matter was heard as a contested case on May 7, 1986, at which time the complainants and the respondents appeared 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. By letter filed with the Commission on December 23, 1985, the complainants alleged that the respondents met on December 19, 1985, and held an illegal session to discuss whether town officials should return to the town salary increases which had been paid to them illegally.
3. The respondents claimed that the Commission lacked jurisdiction over the matter because it had failed to schedule a hearing in accordance with time limits set forth at §1-21i(b), G.S.
4. This case has been validated pursuant to P.A. 86-408 so that the failure of the Commission to comply with the time limits set forth at §1-21i(b), G.S. does not deprive the Commission of jurisdiction.
5. On December 19, 1985 the respondents met jointly and moved to go into executive session.
6. The form of the motion was not clearly stated and is not set forth in the minutes of the meeting.

7. The respondents claim that the executive session was proper under §1-18(a)(e)(1), G.S., and §1-18(a)(e)(2), G.S.

8. The subject matters discussed at the executive session concerned the legality of the pay raises which had been granted to public officials in the middle of their terms.

9. The discussion at the executive session concerned new and old legal opinions which were conflicting, and a threat by the mayor that he would bring suit if he were required to repay the salary increase which he had been granted.

10. After the executive session, a motion was adopted that the increase in salary which was deemed illegal in the opinion of the Borough Attorney should be paid back in full without a rollback to salary before the illegal raise was given, and that the director of finance should determine and set up repayment schedules.

11. It is found that the executive session was not proper under §1-18a(e)(1) because it was not a discussion concerning the appointment, employment, performance, evaluation, health or dismissal of a public officer or employee.


12. It is found that the executive session was not proper under §1-18a(e)(2), G.S., because it was not a discussion of strategy and negotiations with respect to pending claims and litigation to which the public agency or a member thereof, . . . is a party.

13. It is concluded that the executive session which was held on December 19, 1985 concerning the illegality of the salary increases was illegal.

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

1. Henceforth, the respondents shall comply with the open meeting provisions at §1-21, G.S., by restricting its executive sessions to proper purposes which are set forth at §1-18a(e), G.S.

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



Karen J. Hagget
Clerk of the Commission