

Freedom of Information Commission
of the State of Connecticut

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| In the Matter of a Complaint by |) | |
| New Haven Journal-Courier, |) | |
| Complainant |) | Final Decisioning Officer |
| against |) | Docket #FIC 75-32 |
| Commission on Special Revenue, |) | February 11, 1976 |
| Connecticut Sport Enterprises, Inc., and |) | |
| David Friend, |) | |

Respondents

The above captioned matter was heard as a contested case on January 7, 1976, at which time the complainant and the respondents Commission on Special Revenue (hereinafter called Revenue Commission) and David Friend appeared and presented testimony, exhibits and argument on the complaint. Pursuant to section 28 of the Rules of Practice of this Commission, the Hearing Officer granted leave to the Office of the Chief State's Attorney to participate in these proceedings as an intervenor.

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

1. The respondent Revenue Commission is a public agency as it is an executive agency of the State of Connecticut.

2. Pursuant to section 12-562-21 of its Rules and Regulations, the respondent Revenue Commission held an informal conference on October 21, 1975 concerning the revocation of a jai alai fronton license granted to respondent Connecticut Sport Enterprises, Inc. (hereinafter called CSEI).

3. The October 21, 1975 informal conference was a meeting of a public agency as defined in section 1(b) of P.A. 75-342.

4. Section 12-562-21 of the aforesaid rules and regulations provides that informal conferences will not be publicized. There is no evidence that the respondent Revenue Commission voted to go into executive session prior to or at its October 21, 1975 meeting in compliance with section 6 of P.A. 75-342. It is therefore found that such meeting was not a valid executive session.

5. At that meeting, testimony was heard from respondent David Friend and William Moy. In addition, sworn statements from Thomas A. Thomas, Raymond P. Nolan, Harry Grossman, and Herbert E. Pickle were placed in the record as exhibits at the hearing conducted by the Revenue Commission on November 14, 1975.

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6. A stenographic transcript of this meeting was made and the entire record of the meeting was placed under seal by order of the respondent Revenue Commission.

7. Since the meeting of October 21, 1975 was not validly convened as an executive session, it is found that placing the record under seal is not permitted under P.A. 75-342.

8. As a result of the meeting of October 21, 1975, and other proceedings, the respondent Revenue Commission issued and made public a report citing facts adduced at this meeting and ordering the revocation of the license granted to respondent CSEI.

9. From that order, the respondent CSEI has appealed to the Court of Common Pleas for the County of Hartford, which appeal is presently pending.

10. Pursuant to section 4-183(d) of the General Statutes, the respondent Revenue Commission is required to transmit the record of the proceedings as a contested case to the Court of Common Pleas, including the transcript and exhibits of the October 21, 1975 meeting. This record is presently under seal pursuant to the order of the respondent Revenue Commission and is in the process of being transmitted to the Court.

11. By letter dated December 8, 1975, the complainant requested access to inspect and copy the above described transcript of the testimony of respondent David Friend and William Moy and the sworn statements of Thomas, Pickle, Grossman, and Nolan. By letters dated December 11, 1975 and December 18, 1975, the respondent Revenue Commission denied these requests. From such denial, the complainant appealed to this Commission by letter dated December 15, 1975.


12. The contents of the requested transcript and exhibits were not made a part of the record at the hearing on this complaint. The respondents Revenue Commission and David Friend and the intervenor claim that the materials requested are exempt from disclosure pursuant to sections 2(b) (2) and (3) and section 2(c) of P.A. 75-342. This raises collateral questions on grounds that the contents of some, but not all of these public records have been disclosed to Friend, et al., and that the reasons for non-access stated in sections 2(b)(2) and (3) have been exhausted. No finding is made on this claim because this is a part of one of the issues within the jurisdiction of the Court of Common Pleas for Hartford County in the pending appeal.

The following order by this Commission is hereby promulgated on the basis of the record concerning the above captioned complaint following the presentation of written and oral argument pursuant to Section 4-179, General Statutes:

1. As to all minutes, transcripts, and records, the respondent Revenue Commission is hereby ordered to make available to the complainant for inspection or copying such public records described by complainant's request as are in the possession of respondent.

2. The respondent Revenue Commission shall henceforth conduct all of its proceedings, including so-called informal conferences, in conformity with P.A. 75-342. In this regard, this Commission recommends that the respondent Revenue Commission review section 12-562-21 of its rules and regulations, which appears to be in conflict with P.A. 75-342.

By order of the Freedom of
Information Commission


Louis J. Tapogna as
Clerk of the Commission