FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by Joseph Karbowski and Henry Karbowski, Complainants	)	Report of Hearing Officer
	)	Docket #FIC77-178
against	)	October 5, 1977
Town of East Haven and the Planning and Zoning Commission of the Town of East Haven, Respondents	)	
	)	

The above captioned matter was heard as a contested case on October 3, 1977, at which time the complainants and the respondent commission appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint.

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

1. The respondent commission is a public agency as defined by §1-18a(a), G.S.

2. On September 7, 1977, a quorum of the respondent commission held a meeting. During the course of such meeting the chairman of the respondent commission declared a recess. The public meeting reconvened approximately ten minutes after the calling of such recess.

3. By letter filed with the Commission on September 9, 1977, the complainant alleged that during the aforesaid recess, the members of the respondent commission entered an adjoining room and discussed a matter on the agenda of the September 7, 1977 meeting, in violation of the requirements under the Freedom of Information Act.

4. During the aforesaid recess, the chairman of the respondent commission discussed with the town attorney, in a room adjoining the meeting room, a procedural matter relating to the order in which items of business appearing on the agenda of such meeting shall be taken.

5. Although the chairman, at the time he declared a recess, intended to seek the town attorney's advice alone, his discussion with the town attorney was attended by all of the other commission members, who entered the adjoining room during such discussion. The public was not invited to attend such discussion. Before reentering the meeting room and reconvening the meeting, the chairman of the respondent commission made a statement to the other commission members on the proper way to proceed.

6. §1-18a(b), G.S. defines "meeting", in pertinent part, as follows:

> "... any convening or assembly of a quorum of a multi-member public agency, and any communication by or to a quorum of a multi-member public agency ... to discuss or act upon a matter over which the public agency has supervision, control, jurisdiction or advisory power."

7. The aforesaid gathering of the respondent commission during recess is found to itself constitute a meeting of a public agency within the meaning of §1-18a(b), G.S. subject to all of the requirements of the Freedom of Information Act.

8. Accordingly, it is further found that the complainants, who were present at the public portion of the September 7, 1977 meeting but not at the aforesaid unannounced meeting of the commission during recess, were wrongfully denied the right to attend such meeting in violation of §1-21, G.S.

9. When the September 7, 1977 meeting was reconvened after the aforesaid recess, a vote was taken to change a zone.

10. The complainants seek an order from this Commission declaring such zone change a nullity.

11. As the discussion in the aforesaid illegal meeting at recess did not concern the merits of such zone change, such an order would be inappropriate.

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

1. Henceforth, all of the respondent commission's meetings, except executive sessions as defined in subsection (e) of §1-18a, shall be open to the public.

Commissioner William J. Clew

as Hearing Officer

Approved by order of the Freedom of Information Commission on October 12, 1977.

Charlene G. Arnold
Clerk of the Commission