

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by Lawrence W. Bates, Complainant	)	Report of Hearing Officer
	)	
against	)	Docket #FIC77-79
	)	
Town of Andover and Board of Finance of the Town of Andover,	)	June 8, 1977
Respondents	)	
	)	

The above captioned matter was heard as a contested case on May 5, 1977, at which time the complainant and the respondent board appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint.

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

1. The respondent board is a public agency as defined by §1-18a(a), G.S.
2. On March 31, 1977, a quorum of the respondent board met in executive session to discuss the itemized estimates of the expenditures of the town for the fiscal year 1977-78.
3. The aforesaid executive session discussion occurred after the public hearing prescribed by 7-344 G.S.
4. By letter of complaint filed with this Commission on April 12, 1977, the complainant alleged that the aforesaid executive session was not held for a proper purpose under §1-18a(e), G.S.
5. By same letter, the complainant further alleged that nonboard members were present in the aforesaid executive session in violation of §1-21g, G.S., that the record of vote of each agency member was not reduced to writing and filed as required by §1-21, G.S., and that the minutes of the meeting here in issue were not filed within the time requirements of §1-21, G.S.
6. §7-344, G.S. provides specifically for an executive session of the respondent board following the public meeting in which it presented its budget estimates for the ensuing year to the town.
7. The complainant contends that §1-18a(e), G.S. repealed by implication the above provision of §7-344, G.S. concerning executive sessions.
8. For a repeal by implication to be found, the latter statute must have been intended by the legislature as a substitute for the former.

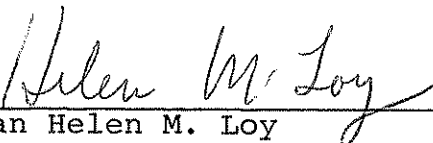
9. §1-18a(e), G.S. was enacted subsequent to §7-344, G.S.
10. §1-19, G.S. states: "Except as otherwise provided by any federal law or state statute, all records ... shall be public records ...".
11. §1-18a(e), G.S., which define executive sessions, includes within its definition, in subsection 5, the above provision of §1-19, G.S.
12. §1-18a, G.S. begins as follows: "As used in this chapter, the following words and phrases shall have the following meaning ..." (emphasis added).
13. The language of P.A. 75-342, as codified in Chapter 3 of the General Statutes, does not support a finding that the legislature intended it to cover the entire field of executive sessions to the exclusion of all other relevant prior statutes.
14. It is therefore found that §1-18a(e), G.S. does not repeal by implication the relevant provision of §7-344, G.S. concerning executive sessions.
15. §7-344, G.S. is found to be operative under the facts described in paragraph 2 and 3 hereinabove.
16. A statute of specific application overrides a statute of general or broad application.
17. Accordingly, the provisions of §1-18a(e), G.S. concerning the proper purposes for which an executive session may be held are found not to apply to the within facts.
18. The respondent board contends that because the provisions of §1-18a(e), G.S. do not apply to the purpose for its executive session meeting on March 31, 1977, none of the other provisions of P.A. 75-342, as codified in Chapter 3 of General Statutes, concerning minutes, the record of votes, and the presence of non board members in executive session, apply.
19. Where separate laws relating to the same subject matter can be reconciled, both must be given effect concurrently.
20. A selectman, and a candidate for the town office of selectman, both not members of the respondent board, were invited to attend, and remained in attendance throughout the entire executive session here in issue, chiefly as nonparticipating observers to the discussions therein.
21. It is therefore found that the respondent board did not limit attendance in the aforesaid executive session as is required by §1-21, G.S.
22. No votes were taken in executive session on March 21, 1977, by the respondent board.

23. The minutes of the meeting of March 31, 1977 were filed on April 13, 1977.

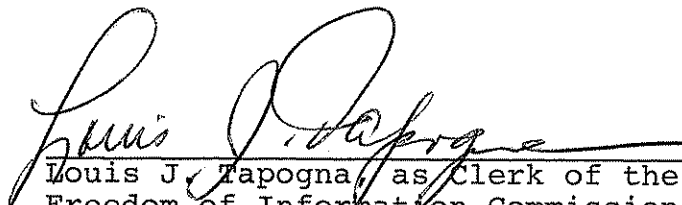
The following order by the Commission is hereby recommended on the basis of the record concerning the above captioned complaint:

1. Henceforth, the respondent board shall strictly limit attendance in executive session as required by §1-21, G.S.

Approved by order of the Freedom of Information Commission on June 8, 1977.

  
Chairman Helen M. Loy

Approved by order of the Freedom of Information Commission on June 8, 1977.

  
Louis J. Papogna, as Clerk of the  
Freedom of Information Commission