

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Eleanor Corciullo,

Complainant

against

Town of Cromwell; and the Board
of Selectmen of the Town of
Cromwell,

Respondents

Report of Hearing Officer

Docket #FIC78-122

November 17, 1978

The above captioned matter was heard as a contested case on September 5, 1978, at which time the complainant 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 dated June 20, 1978 the complainant alleged she was improperly ejected from a meeting of the respondent board on June 12, 1978.
3. The complainant further alleged that the aforesaid meeting was improperly noticed and that during the meeting the respondent board held an improper executive session from which she was excluded in violation of §1-18a(e) and §1-21, G.S.
4. The aforesaid meeting was held as a result of a controversy between certain property owners on Grove Road and the respondent town over the effects of a lighting system which the town had installed in a recreation area used by a local baseball team.
5. The Grove Road residents had employed an attorney who had requested a meeting with the respondent board to resolve the problem without resorting to litigation.
6. The first selectman had not specifically intended to have a public meeting although a letter containing notice of the meeting was sent to the town clerk and was posted.
7. The first selectman invited certain persons affected by the controversy to the meeting including some Grove Road residents and member of the baseball team.
8. A quorum of the respondent board was present at the gathering.

9. It is found that the gathering of June 12, 1978 was a meeting within the meaning of §1-18a(b), G.S.

10. The complainant was ejected from the aforesaid meeting by the first selectman because she prevented the business of the meeting from going forward by asking numerous questions about the propriety and lawfulness of the meeting including whether or not it complied with the Freedom of Information Act.

11. It is found that the complainant had no rights under the Freedom of Information Act to ask questions at the aforesaid meeting.

12. It is further found that the first selectman has implied authority to eject a disruptive individual from a meeting in order to proceed with the business of the meeting under §1-21h, G.S.

13. It is concluded, therefore, that there was no violation of the Freedom of Information Act when the first selectman ejected the complainant from the meeting.

14. The respondent board claimed that the executive session was held for a proper purpose because it consisted of negotiations with respect to pending claims and litigation to which the respondent town was a party.

15. After the inability of the residents of Grove Road and the respondent town to amicably resolve their problems at the aforesaid meeting, the residents of Grove Road filed suit against the town.

16. It is found that on June 12, 1978 the litigation in question was not pending but only threatened.

17. It is concluded, therefore, that the executive session in question was not held for a proper purpose in compliance with §1-18a(e), G.S.

18. The notice for the aforesaid meeting was in the form of a letter which read as follows:

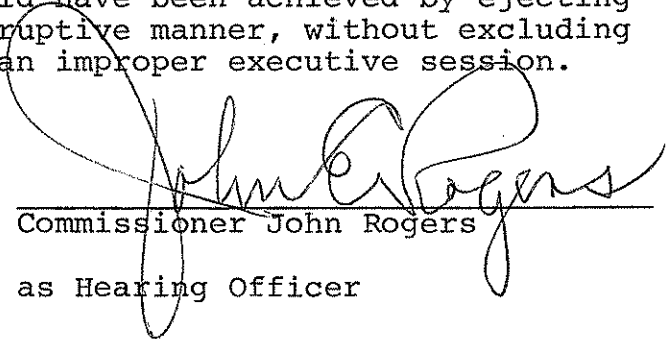
Please be advised that a workshop meeting will be held with the Town Attorney and Attorney Nasar to discuss a mutual problem. The meeting will be held in the office of the First Selectman at the Town Hall on Monday, June 12, 1978 at 7:30 p.m.

19. It is found that because "mutual problem" can refer to almost any subject matter, the aforesaid notice did not comply with the requirement of §1-21, G.S. that the notice of special meeting must specify the business to be transacted.

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 comply with the provisions of §1-21, G.S. with respect to notice and access to its meetings and with the provisions of §1-18a(e), G.S. by limiting its executive sessions to proper purposes.

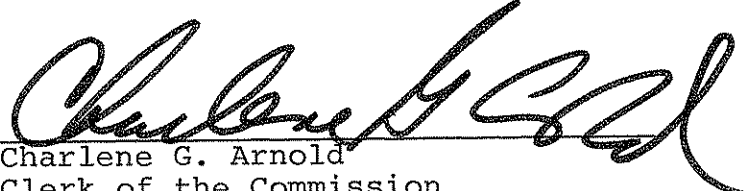
2. There is no finding or portion of the order herein which is intended to imply that the respondents acted in bad faith or with any intent to circumvent the requirements of the Freedom of Information Act. Where a meeting is disrupted by a member of the public that person may be lawfully ejected from a meeting under §1-21h, G.S. The testimony in this case indicated that the improper executive session was held largely to protect the discussion from disruption. Such protection could have been achieved by ejecting any persons who behaved in a disruptive manner, without excluding the public generally by holding an improper executive session.



Commissioner John Rogers

as Hearing Officer

Approved by order of the Freedom of Information Commission on
December 13, 1978.



Charlene G. Arnold
Clerk of the Commission