

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by  
Larry Williams,

Complainant

Report of Hearing Officer

against

Docket #FIC78-147

Town of Suffield; and Planning  
and Zoning Commission of the  
Town of Suffield,

November 29, 1978

Respondents

The above captioned matter was heard as a contested case on October 3, 1978, at which time the complainant and the respondents appeared, stipulated to certain facts, and presented testimony and argument on the complaint.

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

1. The respondents are public agencies as defined by §1-18a(a), G.S.
2. At some time during the course of a meeting held by the respondent commission on July 5, 1978, the respondent commission voted to go into executive session to discuss potential pending litigation.
3. By letter filed with this Commission on July 27, 1978, the complainant challenged the propriety of holding such discussion in closed session under §1-18a(e)(2), G.S.
4. On July 5, 1978, the respondent commission considered various zoning ordinance proposals.
5. One of the proposals considered would restrict subdivision development in the respondent town from one acre to two acre and three acre parcels.
6. A group of large landowners in the respondent town opposed the proposed restriction on subdivision development. This group, after a formal hearing on the matter held prior to July 5, 1978, threatened to file a damages suit against the town in the event that the respondent commission adopted such an ordinance.
7. At the executive session in question, the town attorney gave an oral opinion concerning the town's potential liability in the event of such a suit and the procedure to be followed by the respondent commission to protect against large damages.

8. No such suit was filed in court on or before July 5, 1978, nor is it likely that such a suit would be filed if the respondent commission rejected the proposed restriction on subdivision development.

9. On July 5, 1978, the respondent commission tabled decision on the matter to some time after July 5, 1978.

10. It is found that the aforesaid discussion in executive session did not constitute strategy and negotiations with respect to pending claims and litigation within the meaning of §1-18a(e)(2), G.S.

11. At hearing, the respondents contended that such discussion was a proper purpose for an executive session under the attorney-client privilege.

12. Such discussion did not concern communications given in confidence by a client to an attorney, retained in his professional capacity as such, protected by the attorney-client privilege.

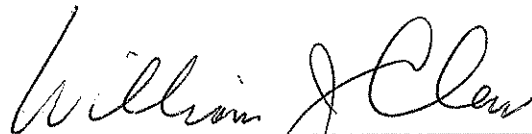
13. Furthermore, §1-18a(e)(5), G.S. only provides for executive session discussions relating to records, or the information contained therein, as described in §1-19(b), G.S.

14. It was not shown that the aforesaid opinion of the town attorney was contained in a record described in §1-19(b), G.S.

15. It is therefore concluded that such discussion was required to be held at an open meeting as required by §1-21, G.S.

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

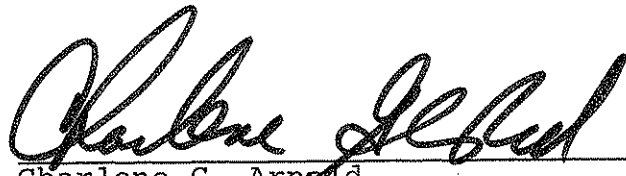
1. Henceforth, all meetings of the respondent commission, except executive sessions as defined in subsection (e) of §1-18a, G.S. shall be open to the public.



Commissioner William Clew

as Hearing Officer

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



Charlene G. Arnold  
Clerk of the Commission