

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Winsted Evening Citizen and
Jane Bakker,

Complainants

Report of Hearing Officer

against

Docket #FIC78-211

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

February 14, 1979

Respondents

The above captioned matter was heard as a contested case on December 11, 1978, at which time the complainants 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 complaint filed with the Freedom of Information Commission October 24, 1978, the complainants asked that the Commission determine whether the respondent planning and zoning commission had held an improper executive session on October 2, 1978 in violation of the Freedom of Information Act as codified in Chapter 3 of the General Statutes.
3. The complainants alleged that although it was stated that the executive session was held to consider possible pending litigation, in fact no litigation was pending.
4. At hearing the respondent commission filed a motion to dismiss alleging the following grounds:
 - a. the subject matter discussed in the executive session is known to the complainant,
 - b. the complainant Bakker was not present at the executive session,
 - c. the complainant Winsted Evening Citizen lacks standing because it failed to object to the executive session on October 24, 1978.
5. At hearing, the hearing officer denied the motion to dismiss on the ground that any person has standing to file a complaint under the Freedom of Information Act.

6. The respondent commission alleged that the executive session was proper under §1-18a(e)(2), G.S. as strategy with respect to pending claims and litigation to which the public agency is a party.

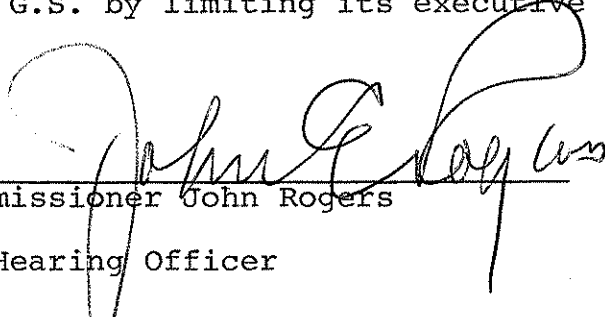
7. The respondent commission discussed how it would pursue its contention that the Public Utilities Control Authority lacked jurisdiction to regulate the construction and location of a community television earth station antenna.

8. After discussion the respondent commission voted to file a motion to become a party or an intervenor in the PUCA hearing, and to retain an attorney to file such motion.

9. It is found that the subject matter of the executive session was not discussion of strategy and negotiations with respect to pending claims and litigation to which the public agency or any of its members is a party.

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

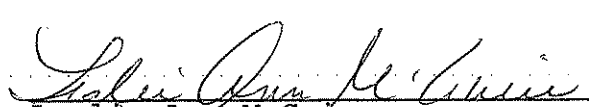
1. Henceforth the respondent commission shall comply with the requirements of §1-18a(e) and §1-21, G.S. by limiting its executive sessions to proper purposes.



Commissioner John Rogers

as Hearing Officer

Approved by order of the Freedom of Information Commission on February 28, 1979.



Leslie Ann McGuire
Acting Clerk of the Commission