

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by  
The Bristol Press and Kenneth  
W. Mayo,

Complainants

Final Decision

against

Docket #FIC78-230

City and Town of Bristol; Zoning  
Board of Appeals of the City and  
Town of Bristol; and Building  
Official of the City and Town of  
Bristol,

March 28, 1979

Respondents

The above captioned matter was heard as a contested case on January 17, 1979, at which time the complainants and the respondents appeared 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. A quorum of the respondent board met on Monday, November 13, 1978 to discuss and act upon, among other things, a certain application for variance #1428.
3. During the course of testimony given by a certain builder concerning the aforesaid application, the respondent building official suggested that the respondent board meet in executive session.
4. Without taking a vote to go into executive session, the respondent board left its meeting room and met with the respondent building official in an outer hallway.
5. In the hallway the respondent building official communicated to the respondent board particular knowledge that he possessed which apparently contradicted the testimony of the aforesaid builder.
6. The respondent board reconvened its public meeting within five minutes of going into the outer hallway.
7. By letter filed with this Commission on November 15, 1978, the complainant alleged that the respondent board violated the Freedom of Information law by not voting to go into executive session and by not stating publicly the reasons "for going behind closed doors."

8. By same letter, the complainants further alleged that the respondent board did not meet in executive session for a proper purpose.

9. The complainant Mayo was present at the respondent board's November 13, 1978 meeting and remained in the meeting room throughout the respondent builder's aforesaid discussion with the respondent board in the outside hallway.

10. The discussion of the board with the building official is found to constitute an improperly called executive session in violation of the procedure required under §1-21, G.S.

11. It is further found that such discussion did not constitute strategy or negotiations with respect to pending claims and litigation to which the respondent board is a party, within the meaning of §1-18a(e)(2), G.S.

12. It is concluded that the complainant Mayo was wrongfully denied his right to attend that portion of the respondent board's November 13, 1978 meeting in which the respondent building official contradicted the testimony of the builder on application #1428.

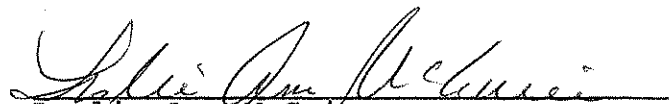
The following order by the Commission is hereby recommended on the basis of the record concerning the above captioned complaint:

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

2. The respondent board may not meet in executive session for any of the reasons defined in §1-18a(e), G.S. without first stating such reason at a public meeting and upon an affirmative vote of two-thirds of its members present and voting.

3. Henceforth, the respondent board may not meet in executive session, under §1-18a(e)(2), G.S., to discuss an application for variance which it has yet to decide.

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

  
Leslie Ann McGuire  
Clerk of the Commission