

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by)
Thomas Karwoski and John D.) Report of Hearing Officer
Bagdasarian, Complainants) Docket #FIC78-25
vs.) April 27, 1978
City and Town of New Britain; and)
the Civil Service Commission of)
the City and Town of New Britain,)
Respondents)

The above captioned matter was heard as a contested case on March 13, 1978, at which time the complainant and the respondent appeared and presented testimony and argument on the complaint.

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

1. The respondent commission is a public agency within the meaning of §1-18a(a), G.S.

2. The complainant Karwoski filed an appeal concerning a promotional exam with the respondent commission which was scheduled for hearing on December 12, 1977.

3. Both complainants were present at the December 12, 1977 hearing.

4. During the aforesaid proceeding the respondent commission called a recess and requested that both complainants leave the room. During this recess the respondent commission questioned one of the examiners who gave the promotional exam concerning the exam of the complainant Karwoski.

5. Following the recess the complainants objected to the respondent commission's actions claiming an illegal executive session. Thereupon, the hearing was continued so that the respondent commission could obtain an opinion from its corporation counsel.

6. The continued hearing was rescheduled from January 3 to January 17, 1978 at which time complainant Karwoski's appeal was denied.

7. On January 18, 1978 the complainant Karwoski was informed that his appeal had been denied.

8. On January 24, 1978, the complainant Bagdasarian, attorney for the complainant Karwoski, went to the town clerk's office after its closing time and was unable, although assisted by the town clerk, to locate the minutes of the respondent commission for the meetings held on December 12, 1977 or for the meeting of January 17, 1978.

9. By letter filed with this Commission on January 31, 1978 the complainants alleged that the respondents held an illegal executive session in the December 12, 1977 hearing in violation of §1-18a(e), G.S.; and that the commission failed to file its meetings within seven days of the meeting to which they referred as required by §1-21, G.S.

10. The respondent claimed that there is no requirement that the minutes for the hearing of December 12, 1977 be filed within seven days of that date under §1-21, G.S., because the hearing was continued to January 17, 1978 and was not completed until that time.

11. It is found that the proceedings of the respondent commission on December 12, 1977 and January 17, 1978 constituted a single, continuing meeting of a public agency.

12. It is found that there is no requirement that the minutes of a continued meeting be filed until the meeting is complete.

13. It is further found that this Commission has jurisdiction over violations of the Freedom of Information Act which occurred at the December 12, 1977 portion of the proceeding because the entire hearing was not concluded until January 17, 1978.

14. It is concluded that the respondent commission violated the requirements of §1-21, G.S. by not filing minutes of its completed hearing on January 17, 1978 within seven days.

15. It is further found that the discussion which the respondent commission held with the examiner outside the presence of the complainants during an alleged recess on December 12, 1977 was an executive session held for an improper purpose in violation of §1-18a(e), G.S.

16. It is concluded that the failure of the respondent commission to comply with the provisions of the Freedom of Information Act applicable to executive sessions may have affected the outcome of the complainant Karwoski's appeal.

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

1. The action of the respondent commission in denying the appeal of the complainant Karwoski on January 17, 1978 is hereby declared null and void.

Judith A. Lahey

Commissioner Judith A. Lahey

as Hearing Officer

Approved by order of the Freedom of Information Commission on
May 10, 1978.

A handwritten signature in cursive script, appearing to read "Charlene G. Arnold", written over a horizontal line.

Charlene G. Arnold
Clerk of the Commission