

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Alfred A. Drago,

Complainant

Report of Hearing Officer

against

Docket #FIC78-262

Town of Salem; and First Select-
man of the Town of Salem,

Respondents

March 14, 1979

The above captioned matter was heard as a contested case on February 22, 1979 at which time the complainant and 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 of complaint filed with this Commission on December 19, 1978, the complainant alleged that the respondent first selectman had not complied with a prior order of the Commission in Freedom of Information Commission docket #78-142.
3. The aforesaid order of the Commission required that the respondents herein provide the complainant herein with a copy of a certain letter from a former first selectman, Mr. Zemko, responding to a December, 1977 letter addressed to him from the complainant.
4. Mr. Zemko was not a member of Salem's board of selectmen either at the time of this Commission's September 25, 1978 hearing in docket #FIC78-142 or at the time of this hearing.
5. The former first selectman, Mr. Zemko, was, however, a member of the board of selectmen on April 3, 1978 and at the time of the complainant's initial request for a copy of such record in docket #FIC78-142.
6. At a meeting of the board of selectmen held on April 3, 1978, the former first selectman represented to the other members of his board that he had personally handed the complainant a copy of his letter responding to the complainant's December, 1977 letter.
7. Subsequent to the November 8, 1978 effective date of this Commission's order in docket #FIC78-142 and the date of this hearing, the current first selectman conducted a diligent search of the board's files and could not locate any such document.

8. To clear up this matter once and for all, and because of the gravity of the asserted violation of the aforesaid order of the Commission which, if proved, may result in the imposition of a fine of up to five hundred dollars and a criminal prosecution, the Commission issued, in its own name, a subpoena which required the attendance of Mr. Zemko.

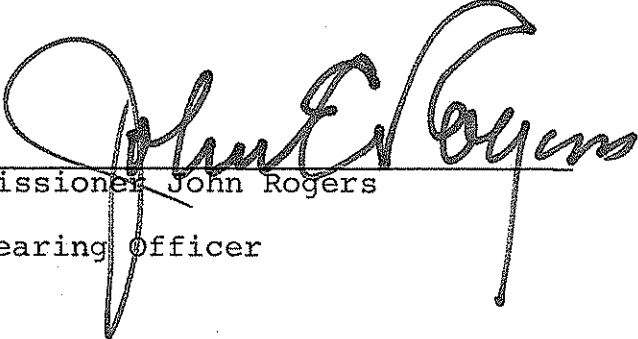
9. Mr. Zemko testified that he never in fact personally responded to the complainant's December, 1977 letter.

10. The document that this Commission ordered disclosed in docket #FIC78-142 therefore never existed in the first instance.

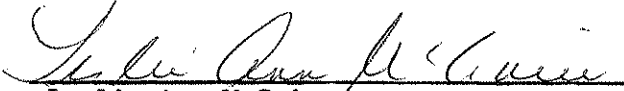
11. It is found that no violation of a prior order of this Commission has occurred.

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

1. The complaint is dismissed.


Commissioner John Rogers
as Hearing Officer

As approved by Order of the Freedom of Information Commission on
March 28, 1979.


Leslie Ann McGuire
Acting Clerk of the Commission