

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by) Report of Hearing Officer
Roxbury-Shepaug Association)
and Mary Pat Glaves,) Docket #FIC79-205
Complainants)
against) March ¹⁰/₂, 1981
the City and Town of Roxbury)
and Zoning Commission of the)
City and Town of Roxbury,)
Respondents)

The above captioned matter was heard March 5, 1980, at which time the parties appeared and presented argument on the complaint.

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

1. The respondents are a public agency within the meaning of §1-18a(a), G.S.
2. By complaint filed with the Commission on October 15, 1979, the complainants alleged that the respondents violated the Freedom of Information Act with respect to the notice and voting requirements of §1-21 and §1-18a(e), G.S. on September 25, 1979.
3. The complainants further requested that the action of the allegedly illegal executive session be declared null and void.
4. On September 25, 1979 the respondent commission held an executive session during which the two boards discussed and voted upon a settlement of a lawsuit involving Roxbury Contractors.
5. As a result of the agreement approved at the aforesaid meeting, a judgment in the lawsuit was filed September 26, 1979.
6. Part of the agreement entailed the filing of an answer in Superior Court in which the respondent board admitted that it had adopted a zone change which was in part illegal.

7. The complainant objected to the executive session on the grounds that both notice for it and the motion to go into executive session which was voted upon, were too vague to constitute compliance with the requirements of the Freedom of Information Act; and, in addition, that the respondent commission failed to vote in public upon the settlement which it adopted.

8. The notice for the special meeting stated as its only business that the "Commission will meet in executive session to discuss pending litigation with attorneys."

9. When the meeting convened the first selectman immediately moved that the meeting revert to an executive session.

10. It was widely known that the litigation with which the respondent commission was preoccupied was that relating to the commercial development proposed by Roxbury Contractors.

11. It is found that under the facts herein the notice of the special meeting and the motion for executive session were sufficient to satisfy the requirements of §1-21, G.S. because under the circumstances the public was misled by neither the form of the notice nor the motion to go into executive session.

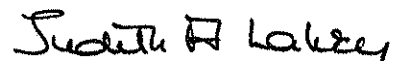
12. Section 1-18a(e)(2), G.S. permits an executive session for the purpose of

"strategy and negotiations with respect to pending claims and litigation to which the public agency or a member thereof, because of his conduct as a member of such agency, is a party until such litigation or claim has been finally adjudicated or otherwise settled."

13. It is found that since §1-18a(e)(2), G.S. does not limit the proceedings of an executive session dealing with strategy and negotiations pertaining to pending litigation to discussion only, that the vote which the respondent commission took was not taken in violation of §1-18a(e)(2) or §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. The complaint is hereby dismissed.



Commissioner Judith A. Lahey
as Hearing Officer