

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Sam J. Pescetello,

FINAL DECISION

Complainant

Docket #FIC80-67

against

August 21, 1981

Town of Columbia; Board of
Selectmen of the Town of Columbia,

Respondents

The above captioned matter was heard as a contested case on October 15, 1980, at which time the complainant 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 as defined in § 1-18a(a), G.S.
2. By letter of complaint filed with this Commission on March 14, 1980, the complainant alleged that the respondent board held a meeting on February 15, 1980 which resulted in a denial of rights conferred by the Freedom of Information Act.
3. The complainant further alleged that during its illegal meeting, the respondent board decided to send a letter to the Board of Tax Appeals of the Town of Columbia, which letter "served to coerce and intimidate the Board of Tax Review so as to render a decision that would not otherwise have been made."
4. On February 15, 1980, two members of the three-member respondent board held a telephone conversation during which they agreed to send a letter to the aforementioned Board of Tax Review.
5. The letter, which contained a recommendation concerning a matter before the Board of Tax Review, was signed by all three members of the respondent board before being sent to the Board of Tax Review.
6. The Board of Tax Review is completely independent of the respondent Board of Selectmen and is not bound by any recommendations the latter body may choose to make.
7. Section 1-18a(b), G.S., defines a meeting, in part, as "any communication by or to a quorum of a multi-member public agency, whether in person or by means of electronic equipment, to discuss or act upon a matter over which the public agency has supervision, control, jurisdiction or advisory power."

8. It is found that two members of the respondent board constitute a quorum.

9. It is further found that the respondent board's decision to send a recommendation to the Board of Tax Review constituted an action upon a matter over which the respondent board had advisory power.

10. It is concluded that the telephone conversation in question constituted a meeting within the meaning of § 1-18a(b), G.S.

11. The respondent board provided neither notice nor minutes for the meeting in question, in violation of the requirements of § 1-21, G.S.

12. Complainant requests that the actions of the two boards be set aside or that the new hearings be required.

13. It is found that while this Commission is empowered to declare the action of the respondent board null and void, no useful purpose would be served by so doing.

14. It is further found that this Commission lacks jurisdiction to declare actions taken by the Board of Tax Review, not a party to this action, null and void.

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

1. The respondent board shall henceforth comply with the notice and minutes requirements of § 1-21, G.S., whenever a quorum meets, either in person or by means of electronic equipment, to discuss matters within its supervision, control, jurisdiction or advisory power.

2. The Commission notes that the respondent board acted in good faith and without intent to violate the provisions of the Freedom of Information Act.

Approved by Order of the Freedom of Information Commission
at its special meeting of August 17, 1981.


Wendy R. B. Paradis
Clerk of the Commission