

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Martha R. Dulko & Kathryn M. Dulko,

FINAL DECISION

Complainants,

Docket #FIC81-37

against

September 3, 1981

State Elections Commission,

Respondent,

The above captioned matter was heard as a contested case on April 6, 1981, at which time the complainants and the respondent appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint.

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

1. The respondent is a public agency as defined by § 1-18a(a), G.S.
2. By letter filed with the Commission on February 24, 1981, the complainants alleged that the respondent violated § 1-21, G.S., by improperly excluding them from a portion of a meeting held on February 20, 1981.
3. In the course of a public meeting of the respondent held on February 20, 1981, the respondent voted to convene in executive session for the purpose of discussing an elections complaint which the complainants had filed with the respondent, and, pursuant to said vote, excluded the complainants from a portion of the meeting.
4. The complainants contend that said executive session was not held for a purpose permitted by § 1-18a(e), G.S.
5. In their complaint to the respondent, the complainants stated that if the respondent failed to take action on their complaint, they would charge the respondent with obstruction of justice.
6. The respondent contends that it convened in executive session pursuant to § 1-18a(e)(2), G.S., to discuss strategy with respect to the complainants' threat to file criminal charges.
7. It is concluded that the complainants' threat to file criminal charges does not constitute either "litigation" or a "claim" as contemplated by § 1-18a(e)(2), G.S.

8. It is therefore concluded that the respondent did not conduct the executive session at issue for a purpose permitted by § 1-18a(e)(2), G.S.

9. The respondent further contends that it conducted the executive session pursuant to § 1-18a(e)(5), G.S., for the purpose of discussion which would result in the disclosure of information contained in a public record that is exempt from disclosure pursuant to § 1-19(b)(3)(A) and 1-19(b)(3)(B), G.S.

10. In support of its claim that it met in executive session pursuant to § 1-18a(e)(5), G.S., the respondent contends that the complainant's election law complaint is a public record that is exempt from disclosure pursuant to §§ 1-19(b)(3)(A) and 1-19(b)(3)(B), G.S.

11. It is concluded that the complainants' election complaint was available to the public.

12. It is therefore further concluded that said complaint was not exempt from disclosure pursuant to § 1-19(b)(3), G.S.

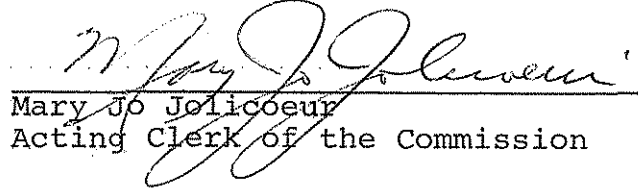
13. It is concluded, accordingly, that the respondent did not conduct the executive session at issue for the purpose authorized by § 1-18a(e)(5), G.S.

14. It is therefore concluded that the respondent violated § 1-21, G.S., by convening in executive session for a purpose not permitted by § 1-18a(e), G.S.

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

1. Henceforth, the respondent shall comply with § 1-21, G.S., by convening in executive session only for purposes permitted by § 1-18a(e), G.S.

Approved by order of the Freedom of Information Commission at its regular meeting of August 26, 1981.


Mary Jo Jolicoeur
Acting Clerk of the Commission