

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

David J. Peska, et al

Docket ##FIC 81-96, 81-87,
81-117, 81-118, 81-119
81-120, 81-121, 81-122,
81-123

Complainant(s)

against

the Town of Clinton and
Board of Tax Review of the
Town of Clinton,

Respondent(s)

December 10, 1981

The above captioned cases were scheduled for hearing on November 10, 1981 at which time the parties appeared and presented evidence and argument on the complaints.

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

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

2. By complaints filed with the Commission on various dates, the complainants alleged that the respondent had failed to provide them with notices and minutes relating to meetings at which assessments relating to real estate and personal property were increased.

3. The letters of complaint were filed June 4, June 10, July 2, July 7, July 10 and July 20, 1981.

4. The letters of complaint requested that the Commission hold a hearing to determine why no meetings were held and no notices or minutes of any meetings filed.

5. At the hearing the respondent admitted holding meetings concerning the increased tax assessments with respect to which neither notices nor minutes had been filed.

6. The respondent admitted in an after-filed exhibit that deliberative and investigatory meetings had been held on various dates in March, April and early May -- specifically on March 26, 28, 31, April 2, 4, 7, 9, 11, 14, 15, 16, 21, 23, 25, 28, 29, 30, May 2, and 4, 1981.

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7. However, the respondent was unable to ascertain which matters were considered on any of the specific dates, except for one.

8. The respondent admitted that the appeal of Edward Buxton, a complainant herein, was decided April 30, 1981.

9. In the usual instance the Commission has jurisdiction only over violations of the Freedom of Information Act which occur within thirty days of the filing of the complaint, see §1-21i(b), G.S.

10. However, the Commission has made an exception to this rule with respect to the failure of an agency to file minutes which if unremedied has been regarded as a continuing violation.

11. The Commission, therefore, has jurisdiction only over the complainants' claims of the failure of the respondent to give proper notice of its meetings if those meetings were held within thirty days prior to the filing of the complaints.

12. It is found that none of the complaints alleging the failure of the respondents to provide notice of the deliberative meetings were filed in a timely manner and that therefore the Commission lacks jurisdiction over that aspect of the complaints.

13. It is found that the Commission does have jurisdiction over the portions of the complaints alleging failure of the respondent to file minutes of its meetings.

14. The respondents admit that no minutes exist. The records which do exist are fragmentary.

15. It is concluded that the failure of the respondent to keep minutes is a violation of §1-21 and §1-19(a), G.S.

16. At the hearing the complainants asked that the Commission require the respondent to reconsider all of the tax appeals which were discussed at the meetings in question.

17. The Commission takes judicial notice of the fact that the complainants had available to them a right of appeal of the decisions of the respondent board under §12-148, G.S.

18. The relief requested by the complainants at hearing was not requested in any of the letters of complaint.

19. It is not appropriate to require the respondent board to reconsider its decisions under the facts of this case -- where

the Commission lacks jurisdiction over portions of the complaint, where the respondent board was not given notice that such relief would be requested and where an alternate source of relief, an administrative appeal, was available to the complainants.

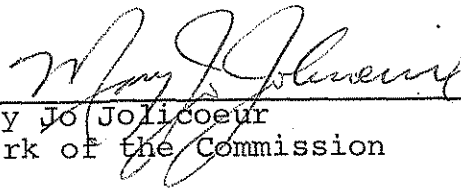
The following order by the Commission is hereby recommended on the basis of the record concerning the above captioned complaint:

1. The respondent shall henceforth file minutes of its investigatory and deliberative meetings upon tax appeals, as required by §1-21 and §1-19a, G.S.



Commissioner Donald W. Friedman as
Hearing Officer

Approved by order of the Freedom of Information Commission
at its regular meeting of March 10, 1982.



Mary Jo Jolicoeur
Clerk of the Commission