

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Jan Frazier (Middletown Press),

Complainants

against

City and Town of Middletown; Planning
and Zoning Commission of the City and
Town of Middletown,

Respondents

Report of Hearing Officer

Docket #FIC81-161

February 10, 1982

The above captioned matter was heard as a contested case on December 11, 1981, at which time the complainants and the respondent commission 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 commission is a public agency as defined by §1-18a(a), G.S.
2. On September 9, 1981 the respondent commission held a regular meeting during which it convened in executive session for the purpose of having a "staff meeting" with a technical consultant.
3. On September 15, 1981 the complainants filed a letter with the Commission alleging that the September 9, 1981 executive session of the respondent commission violated the Freedom of Information Act.
4. Jan Frazier, a named complainant and a former reporter for the Middletown Press who is no longer a resident of Connecticut, did not appear at the hearing in this matter. The Complainants' position was presented by William Holder, also a reporter for the Middletown Press.
5. At the hearing on this matter the respondent commission moved to dismiss the complaint on the ground that Holder, who is not an attorney, could not represent Frazier in this matter.
6. It is found that this complaint was brought by Jan Frazier as a representative of the Middletown Press, and that the Middletown Press was a party complainant in this matter.
7. It is found that Holder was, at the time of the hearing in this matter, employed by the Middletown Press and that his appearance at the December 11, 1981 hearing was as an agent or other duly authorized representative of the Middletown Press, within the meaning of §1-27j-29 of the Regulations of Connecticut State Agencies.

8. The respondent commission's motion to dismiss the complaint is therefore denied.

9. It is found that the September 9, 1981 executive session of the respondent commission was for the purpose of discussing a consultant's report which outlined possible alternative decisions of the respondent commission on a special exception application.

10. The respondent commission claims that the executive session referred to in paragraph 9, above, involved discussion of preliminary drafts and notes exempted from disclosure by §1-19(b) (1), G.S.

11. It is found that the consultant's report referred to in paragraph 9, above, was a completed document, presented to the respondent commission for its consideration, and was not a preliminary draft or note within the meaning of §1-19(b) (1), G.S.

12. It is found that the respondent commission failed to prove by any credible evidence that any document exempt from disclosure under §1-19(b), G.S., was at risk of being disclosed as a result of the discussion referred to in paragraph 9, above.

13. It is therefore concluded that the September 9, 1981 executive session of the respondent commission was convened in violation of §§1-21 and 1-18 a(e), G.S.


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

1. Henceforth the respondent commission shall convene in executive session in strict compliance with the requirements of §1-21, G.S., and only for one or more of the purposes set forth in §1-18a(e), G.S.



Donald W. Friedman
as Hearing Officer

Approved by order of the Freedom of Information Commission at its regular meeting of March 24, 1982.



Mary Jo Jolicoeur
Clerk of the Commission