

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Harry Weide,

FINAL DECISION

Complainant

Docket #FIC83-49

against

September 21, 1983

Stratford Housing Authority,

Respondent

The above captioned matter was heard as a contested case on June 29, 1983, at which time the complainant and the respondent appeared 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 within the meaning of §1-18a(a), G.S.

2. On March 21, 1983 the respondent posted notices of two special meetings to be held on March 23, 1983, one at 4:00 p.m. and one at 7:00 p.m.

3. The 4:00p.m. meeting was called to discuss "HUD Audit Report #82-BO-202-1031 & Covering Letter dated March 30, 1983."

4. At the 4:00 p.m. meeting, the respondent convened in executive session to discuss audit report #82-BO-202-1031 "because of pending claims and litigation."

5. The decision to convene in executive session was based, in part, upon a communication from the respondent's counsel, dated February 14, 1983, in which he expressed the opinion that the audit report should be discussed in executive session.

6. By letter of complaint filed with the Commission on April 22, 1983 the complainant alleged that the executive session was not held for a proper purpose as such purposes are defined at §1-18a(e), G.S., and that the presence of the respondent's recording secretary at the executive session violated §1-21g, G.S.

7. The complainant also alleged that prior to the 7:00 p.m. meeting, three of five commissioners of the respondent met, without public notice, to discuss the business that was to be transacted at the public meeting, in violation of §1-21, G.S. The complainant requested that the Commission impose a civil penalty against the respondent.

8. It is found that an audit of the respondent, conducted by the state and federal governments, resulted in a March 12, 1982 report mandating various corrective actions, which actions had been completed at the time of the March 23, 1983 meeting.

9. A former employee of the respondent, discharged following the audit due to her alleged inability to perform her duties, has filed suit against the respondent in federal court.

10. It is found, however, that nothing discussed at the 4:00 p.m. meeting was related directly to the discharged employee or to strategy and negotiations with respect to the pending litigation filed by her.

11. It is therefore found that the respondent violated §1-21, G.S. when it convened in executive session on March 23, 1983 to discuss the HUD audit report.

12. It is also found that the respondent's recording secretary, who was not invited to present testimony or opinion pertinent to a matter before the respondent, attended the March 23, 1983 executive session in violation of §1-21g, G.S.

13. It is found that prior to the 7:00 p.m. meeting, several members of the respondent gathered in the office of the executive director of the housing authority while waiting for the meeting to convene.

14. It is found that while gathered in the executive director's office, the executive director and the comptroller of the housing authority began discussing findings of the comptroller regarding the audit report with the chairman of the respondent.

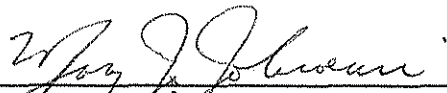
15. It is found that although other members of the respondent were present, the discussion among the executive director and comptroller of the housing authority and the chairman of the respondent was not a meeting as defined by §1-18a(b), G.S.

16. The Commission declines to impose a civil penalty against the respondent for its illegal executive session since its actions were based upon a legal opinion which it believed was correct.

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

1. Henceforth the respondent shall convene in executive session in strict compliance with the requirement of §§1-21 and 1-21g, G.S., and only for one or more of the proper purposes listed at §1-18a(e), G.S.

Approved by order of the Freedom of Information Commission at its regular meeting of September 14, 1983.



Mary Jo Jolicœur
Clerk of the Commission