

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Keith Fontaine (Norwich

Docket #FIC83-237

Bulletin)

May 9, 1984

Complainant(s)

vs.

City and Town of Norwich,
City Council and City
Manager of the City and
Town of Norwich

Respondent(s)

The above captioned matter was scheduled for hearing February 2, 1984 at which time the parties appeared and presented evidence 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. By letter filed with the Commission December 6, 1983 the complainant alleged that an executive session which the respondent held on December 6, 1983 was improper because it was not held for a proper purpose within the meaning of §1-18a(e), G.S.
3. The respondent claimed that the executive session was proper within the meaning of §1-18a(e)(2), G.S. and §1-18a(e)(4), G.S. and that it was permissible because it was protected by the attorney-client privilege.
4. The executive session was voted so that the respondents could discuss a pending legal matter concerning possible sale or lease of municipal property.
5. §1-18a(e)(2), G.S. permits an executive session to be held for discussion of strategy and negotiations with respect to pending claims and litigation.
6. The respondents failed to prove that any pending legal matter was discussed during the executive session.

7. §1-18a(e)(4), G.S. permits an executive session to be held for

discussion of the selection of a site or the lease, sale or purchase of real estate by a political subdivision of the state when publicity regarding such site, lease, sale, purchase or construction would cause a likelihood of increased price until such time as all of the property has been acquired or all proceedings or transactions concerning same have been terminated or abandoned.

8. It is found that §1-18a(e)(4), G.S. did not permit the respondent to conduct the discussion at issue herein in executive session.

9. It is concluded that the respondents failed to prove the executive session was permitted under §1-18a(e)(2), G.S. or under §1-18a(e)(4), G.S.

10. The respondents claim that the attorney-client privilege permitted them to conduct their discussion in executive session.

11. The discussion included an explanation of what liability would exist if the designation of "Preferred Developer" which had been granted Jay Schochet Associates were withdrawn.

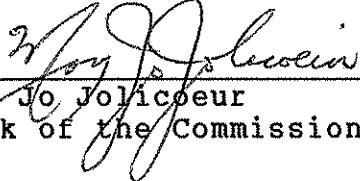
12. It is found that the respondent failed to prove that the discussion conducted by the respondent was protected by the attorney-client privilege.

13. It is concluded, therefore, that the executive session which was held by the respondent on December 6, 1983 violated the open meetings requirements which are set forth at §1-21, 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 shall comply with the open meetings requirements at Section 1-21, G.S.

Approved by order of the Freedom of Information Commission at its regular meeting of May 9, 1984.



Mary Jo Jolicœur
Clerk of the Commission