

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
D. R. Gilroy and the Recovery
Alliance, Inc.,

FINAL DECISION

Complainant

Docket #FIC84-67

against

Milford Progress Incorporated

October 10, 1984

Respondent

The above captioned matter was heard as a contested case on June 20, 1984 at which time the complainant and the respondent appeared and presented testimony, exhibits and argument on the complaint.

1. At some time prior to March 30, 1984 the complainant made a request of the respondent for access to inspect and copy the minutes of the respondent's meetings.

2. By letter dated March 30, 1984 the respondent denied the request on the ground that the respondent "is a private, non-profit corporation and is not subject to the Freedom of Information laws that refer to 'public agencies.'"

3. By letter of complaint filed with the Commission on April 27, 1984 the complainant appealed the denial, alleging that the respondent is a public agency subject to the requirements of the Freedom of Information Act.

4. It is found that the respondent was incorporated as a nonstock corporation on August 29, 1974 by members of the Milford chamber of commerce. Of the three incorporators, one was the former mayor and one was the former town attorney of Milford, but the terms of both had expired in 1969.

5. The current president of the respondent is the former town attorney referred to above. His immediate predecessor had been a member of the Milford planning and zoning board, but was not a member during his term of office.

6. The certificate of incorporation states that the purpose of the respondent is "to promote. . .the physical, natural and economic resources of the City of Milford, . . .and to serve as the principal agency in Milford through which application could be made for low cost financing available to non-profit corporations from the State Department of Commerce, Small Business Administrations and other State and federal agencies. . . [and] [t]o possess and exercise any and all authority and powers conferred by state statutes upon

non-profit corporations in Connecticut involving any and all rights, privileges, and entitlements of a non-profit development corporation as defined in Chapter 132 of the Connecticut General Statutes under the title "Municipal Development Projects."

7. Pursuant to §8-188, G.S., any municipality which has a planning commission is authorized "to designate the economic development commission or the redevelopment agency of such municipality or a nonprofit development corporation as its development agency and exercise through such agency the powers granted under this chapter"

8. The respondent has not been designated as a development corporation within the meaning of Chapter 132 of the General Statutes by the city of Milford.

9. With the exception of a small administrative fee paid to the chamber of commerce, the respondent is housed rent-free in a building leased by the chamber of commerce from the city of Milford. The operating expenses of the respondent and the salaries of its employees are paid for by the chamber of commerce. The executive vice president of the chamber of commerce acts as the chief executive officer of the respondent, and the phones of the respondent are answered by the chamber of commerce.

10. The only funds received by the respondent other than those received from the chamber of commerce are the result of private fund-raising or administrative fees of 10% from block grant monies.

11. A report on the activities of the respondent is presented to the chamber of commerce at each of its monthly meetings under the rubric "affiliate report."

12. The members of the respondent are selected from among private citizens by a nominating committee. The members of the board of directors and the president of the respondent are elected by the members of the respondent.

13. The mayor of the city of Milford is a member of the respondent, and it has been the custom of the respondent since its inception for the mayor to be a member. The membership of the mayor is not required, but the by-laws do require, "to insure that the Corporation is representative of the community," membership of at least two of the following groups: local government, a private sector lending institution, a community organization and a business organization.

14. The respondent has in the past dealt directly with the city of Milford in connection with requests for funding for low-interest loans to Milford businesses, but receives no funds from Milford for its own operation.

15. The respondent acts as the subgrantee of federal block grant money, passing funds on to Milford businesses upon the approval of applications. The respondent also works with the Small Business Administration on loans to businesses and store-front loan programs.

16. The complainant claims that the respondent conducts business, rent-free, in a city-owned building, that the membership of the respondent is composed largely of current or former city officials, that the respondent oversees disbursement of public monies and that it performs the public function of processing loans. The complainant also claims that the fact that the respondent has not been designated as a redevelopment agency pursuant to §8-188 is not significant, since the powers under that section are granted to the city, which then selects the entity with which it chooses to work.

17. The complainant also points to minutes of a October 6, 1975 meeting of the Milford board of aldermen at which the members considered a proposal to enter into an agreement with the respondent for the distribution of "CDA" funds, one of the aldermen expressing concern that the city should have some assurances regarding "checks, balances and controls."

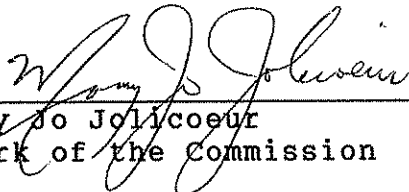
18. It is found, however, that the respondent was created by a private entity, receives virtually no governmental funding, is subject to governmental regulation only to the extent that other non-profit corporations are so subject and performs a function which has the effect of benefitting the community, but which is not an essentially governmental function.

19. It is concluded that the respondent is not a public agency within the meaning of §1-18a(a), G.S. and is therefore not subject to the requirements of the Freedom of Information Act.

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

1. The complaint is hereby dismissed.
2. The Commission notes that the findings and conclusions herein are strictly limited to the facts of the above matter.

Approved by order of the Freedom of Information Commission at its regular meeting of October 10, 1984.



Mary Jo Jolicœur
Clerk of the Commission