

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Francis Withington,

FINAL DECISION

Complainant

Docket #FIC84-91

against

December 20, 1984

Majority Members of the City
Council of the City and Town of
West Haven,

Respondents

The above captioned matter was heard as a contested case on August 9, 1984 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 April 30, 1984 the committee of the whole of the city council of the city and town of West Haven held a meeting to discuss and vote upon the mayor's recommended budget for fiscal year July 1, 1984 to June 30, 1985 for presentation at a special meeting on May 3, 1984.
3. At the city council's May 3, 1984 meeting the 10 majority members of the city council voted to add private trash pickup to the budget.
4. By letter of complaint filed with the Commission on June 30, 1984 the complainant alleged that the issue of private trash pickup was discussed by the respondents at a gathering held, without notice, following the adjournment of the April 30, 1984 meeting.
5. The complainant further alleged that Mr. Ray Collins, one of the members of the city council in attendance at the April 30, 1984 gathering, acted as a private consultant, addressing the other 9 persons in attendance on the issue of private trash pickup.
6. The complainant asked that the Commission declare null and void the city council's May 3, 1984 vote concerning private trash pickup and that civil penalties be imposed upon the respondents.
7. Subsequent to the date of hearing the complainant submitted to the Commission an audio tape recording and several documents, which recording and documents have been excluded from the record of the above matter.

8. The respondents claim that their April 30, 1984 gathering was a caucus within the meaning of §1-18a(b), G.S. and was therefore exempted from the notice requirements of §1-21(a), G.S.

9. It is found that at the April 30, 1984 gathering Mr. Collins supplied information to the other majority members of the city council regarding options with respect to trash collection. Those in attendance decided by "consensus" to go out to private bid for trash collection.

10. The issue of private trash collection was not introduced at a public meeting of the city council at any time prior to the May 3, 1984 meeting.

11. It is found that on April 30, 1984 the respondents discussed and reached a decision on a matter over which the city council has supervision, control, jurisdiction or advisory power. The April 30, 1984 decision of the respondents was adopted on May 3, 1984 without public access to the process by which the decision was reached.

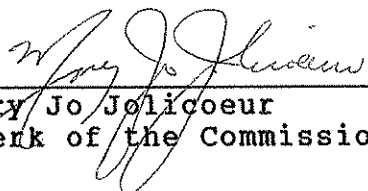
12. It is concluded that the April 30, 1984 gathering of the respondents was a meeting within the meaning of §1-18a(b), G.S. and that the respondents violated §1-21(a), G.S. when they failed to post notice of or provide public access to such meeting.

13. However, the Commission hereby declines to declare the May 3, 1984 action of the city council null and void or to impose civil penalties as requested by the complainant.

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 act in strict compliance with the requirements of §1-21(a), G.S. regarding notice of and access to meetings of public agencies.

Approved by order of the Freedom of Information Commission at its regular meeting of December 12, 1984.



Mary Jo Jolicoeur
Clerk of the Commission