

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Ralph W. Williams and the
Journal Inquirer,

FINAL DECISION

Complainants

Docket #FIC85-52

against

August 14, 1985

Town Council of the Town of
Vernon and Town Attorney
of the Town of Vernon,

Respondents

The above captioned matter was heard as a contested case on May 13, 1985 at which time the complainants 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 respondents are public agencies within the meaning of §1-18a(a), G.S.

2. On or about February 15, 1985 the respondent town attorney, Mitchell Kallett, filed notice of an executive session to be held for those members of the respondent council who had been subpoenaed to testify at a hearing before this Commission regarding FIC 84-239, John L. Giulietti v. Town of Vernon and Town Council of the Town of Vernon.

3. On February 19, 1985 ten of the twelve members of the respondent council met with the Attorney Kallett in the office of the mayor of Vernon prior to the respondent council's regularly scheduled meeting. Also in attendance was Attorney John Casey, special counsel to the respondent council for purposes of the Giulietti complaint.

4. The February 19, 1985 gathering was attended by members of the respondent council who were subpoenaed as well as by some who were not. No notice of the gathering was given to council members Giulietti and Abbott.

5. By letter of complaint filed with the Commission on February 27, 1985 the complainant alleged that the respondent council's failure to provide notice of the gathering to two of its members violated §1-21, G.S. and that the executive session was convened illegally because the respondent council did not first convene in public and did not vote to convene in executive session or state a proper purpose for the session.

6. It is found that the February 19, 1985 gathering was arranged to allow Attorney Casey to interview potential witnesses in preparation of his defense of the respondents in FIC 84-239.

7. Attorney Casey had been brought in to represent the respondents in Mr. Giulietti's complaint to this Commission because Attorney Kallett had been subpoenaed to testify by Mr. Giulietti.

8. The February 19, 1985 gathering was arranged by Attorney Kallett, who decided who would be invited to it and, after consulting with Commission staff, whether and how it would be noticed.

9. The gathering itself was run by Attorney Kallett, who directed questions to members of the respondent council regarding the subject of Mr. Giulietti's complaint.

10. The purpose of the February 19, 1985 gathering was to allow Attorney Casey to interview potential witnesses. The witnesses were called to meet with Attorney Casey and Attorney Kallett collectively for the sake of convenience.

11. Testimony at hearing indicated that the gathering was limited to the questioning of potential witnesses by counsel. The gathering did not involve discussion of or action upon the complaint by members of the respondent council.

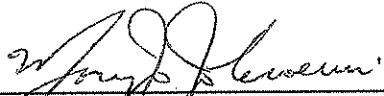
12. It is found that interviewing of members of the respondent council by Attorney Kallett for the purpose of ascertaining the facts underlying Mr. Giulietti's complaint did not constitute a meeting of the respondent council within the meaning of §1-18a(b), G.S.

13. It is concluded that the respondent council's failure to provide notice of the gathering to two of its members did not violate §1-21(a), G.S.

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.

Approved by order of the Freedom of Information Commission at its special meeting of August 14, 1985.



Mary Jo Jolicoeur
Clerk of the Commission