

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
John L. Giulietti,

FINAL DECISION

Complainant

Docket #FIC85-64

against

August 14, 1985

Mayor of the Town of
Vernon, Town Council 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 complainant and the respondents 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 respondent mayor 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 the complainant, a council member, or to Ms. S. Ardis Abbott, another council member.

5. By letter of complaint filed with the Commission on February 21, 1985 the complainant alleged that the respondent council's failure to provide notice of the gathering to him or to Ms. Abbott violated §1-21, G.S. The complainant also alleged that the executive session violated the respondent council's rules of procedure and certain provisions of Vernon's town charter, over which latter allegations this Commission has no jurisdiction.

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 respondent council in FIC 84-239.

7. Attorney Casey had been brought in to represent the respondent council in FIC 84-239 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 in FIC 84-239.

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 counsel's interviewing of members of the respondent council for the purposes 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