

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by  
Peter Jay Gould

FINAL DECISION

Complainant

Docket #FIC 85-65

against

City of Stamford Department of  
Traffic and Parking and  
Ellen Bromley, Esq., Hearing Officer

Respondents

April 8, 1985

The above captioned matter was heard as a contested case on April 2, 1985 at which time the complainant and the respondents appeared, stipulated as to certain facts and presented testimony, exhibits and argument on the complaint.

After consideration of the entire record the following facts are found:

1. By letter received by the Commission on March 21, 1985, the complainant alleged that:

a. a parking violation hearing was held on March 20, 1985 and the hearing officer improperly denied his request to tape record and videotape the proceedings;

b. parking violation hearings conducted by the respondents are not open to the general public and notices are not sent to the Town Clerk;

c. approximately ten such hearings are held each month.

2. Because the complaint alleged an improper ongoing agency practice of meeting in executive session, a preliminary hearing was held on April 2, 1985, pursuant to §1-21i, G.S.

3. Pursuant to §1-21i, G.S., the following finding of probable cause and order was issued at the conclusion of the hearing:

It is found that there is probable cause that parking violation hearings conducted by the respondent Stamford Department of Traffic and Parking and any Hearing Officers, pursuant to Conn. Gen. Stat. §7-152b, are in violation of Conn. Gen. Stat. §§1-18a and 1-21.

THEREFORE, IT IS ORDERED:

That the respondent Stamford Department of Traffic and Parking and any Hearing Officers shall not conduct any parking violation hearings, pursuant to Conn. Gen. Stat. §7-152b, in closed or executive session until the Commission renders its final decision at a Special Meeting on April 8, 1985 at 2 p.m. at the Hearing Room, First Floor, 30 Trinity Street, Hartford, CT, provided that such hearings may be conducted if in full compliance with the provisions of Conn. Gen. Stat. §§1-21 through 1-21h, inclusive.

4. The respondent Department of Traffic and Parking is a public agency within the meaning of §1-18a(a), G.S.

5. The respondents claimed that Hearing Officers are not public agencies but are independent arbitrators because they make quasi-judicial decisions, do not represent the city and receive no compensation.

6. Hearing Officers conducts parking violation hearings pursuant to §7-152b, G.S., and Stamford Ordinance No. 492.

7. §7-152b(b), G.S., provides that the mayor of the city shall appoint the hearing officers.

8. It is noted that agencies that make quasi-judicial decisions are public agencies if they are executive, administrative, or legislative offices of any state or town agency. The Commission has found that zoning appeal boards (Advisory Opinion #7), boards of tax review (FIC #81-127 and FIC #81-59), and "Lemon Law" arbitration panels (Advisory Opinion #61), among others, are public agencies subject to the Freedom of Information Act.

9. It is concluded that the respondent Hearing Officer is a public agency within the meaning of §1-18a(a), G.S.

10. It is found that on March 20, 1985, the complainant appeared at the office of the respondent Department of Traffic and Parking for a parking violation hearing.

11. It is found that persons scheduled for hearings sat in a waiting room and were called in individually for their hearings.

12. It is found during the complainant's hearing the respondent Hearing Officer did not allow him to tape record the proceedings and did not allow an acquaintance to videotape the proceedings.

13. It is found that notices of parking violation hearings are not filed with the Town Clerk 24 hours in advance of the hearing and are not posted by the Town Clerk.

14. It is found that while parking violation hearings are generally open to the public, they are closed to the public from time to time upon the request of persons appealing violations.

15. It is found that the respondent Department of Traffic and Parking administers the parking violation hearings, including sending out notices, scheduling hearings, providing facilities and staff assistance and maintaining public records of the proceedings.

16. The respondents claimed that the hearings are not meetings under §1-18a(b), G.S., because they are administrative or staff meetings of a single-member public agency.

17. It is found that parking violation hearings are hearings pursuant to §7-152b, G.S.

18. It is concluded that parking violation hearings are meetings within the meaning of §1-18a(b), G.S.

19. The respondents claim that the hearings may properly be held in executive session pursuant to §1-18a(e)(2), G.S., which allows an executive session for strategy and negotiations with respect to pending claims and litigation to which the public agency is a party.

20. It is found that quasi-judicial proceedings and hearings of public agencies do not fall within the meaning of §1-18a(e)(2), G.S.

21. It is concluded that parking violation hearings are not properly held in executive session pursuant to §1-18a(e)(2), G.S.

22. The respondents expressed concern for the privacy rights of persons who request closed hearings.

23. It is found that there the claimed privacy rights of persons do not supersede the open meetings requirement of §1-21, G.S.

24. It is concluded that parking violation hearings are special meetings subject to the provisions of the Freedom of Information Act.

25. It is concluded that the respondents violated §1-21, G.S., by failing to provide proper notice of the March 20, 1985 hearing and of all parking violation hearings.

26. It is concluded that the respondents violated §1-21a, G.S. by failing to allow the complainant to tape record and videotape the March 20, 1985 hearing. The respondent Hearing Officer violated the complainant's rights without reasonable cause.

27. It is concluded that the respondents violate §1-21, G.S., when they allow a parking violation hearing to be closed to the public at the request of an individual.

28. The complainant has requested that a civil penalty be imposed on the respondents.

29. The Commission declines to exercise its discretion to impose a civil penalty on the respondent Hearing Officer because she claimed ignorance and misinterpretation of the law and stated her willingness to comply with the Freedom of Information Act in the future.

30. The Commission declines to exercise its discretion to impose a civil penalty on the respondent Department of Traffic and Parking because counsel represented that the respondent was unaware that parking violation hearings were subject to the Freedom of Information Act and would comply if the Commission so found.

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


1. Effective immediately, parking violation hearings shall only be held in full compliance with the Freedom of Information Act, Chapter 3 of the General Statutes.

2. Parking violation hearings shall not be held in executive session.

3. The respondent Department of Traffic and Parking shall place a notice, not less than 9" by 12", in all facilities used in relation to parking violation hearings which shall state, in large letters, that "ALL PARKING VIOLATION HEARINGS ARE PUBLIC MEETINGS UNDER THE CONNECTICUT FREEDOM OF INFORMATION ACT. THE HEARINGS ARE OPEN TO ANY MEMBER OF THE PUBLIC."

4. The respondent Department of Traffic and Parking shall include the notice in paragraph 3, above, in all notices of parking violation hearings

Approved by order of the Freedom of Information Commission at its special meeting of April 8, 1985.

  
Catherine I. Hostetter  
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Acting Clerk of the Commission