

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Geraldine Mills,

FINAL DECISION

Complainant

Docket #FIC85-71

against

August 28, 1985

Asbestos Remedial Action
Committee of the Town of
Bethel,

Respondent

The above-captioned matter was heard as a contested case on June 19, 1985 in conjunction with FIC 85-54, John Reichard v. Asbestos Remedial Action Committee of the Town of Bethel, 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. The members of the R were appointed by the Bethel Board of Selectmen to study and act in an advisory capacity with respect to the removal of asbestos from Bethel High School. The complainant is a member of the respondent.
3. By letters filed with the Commission on February 26, 1985 and amended on March 15, 1985, the complainant alleged that the respondent failed to post agendas for meetings held on December 19, 1984, January 24, 1985, February 7, 1985, or February 21, 1984, that it failed to file minutes for its December 19, 1984, January 24, 1985 or February 7, 1985 meetings and that the minutes filed for the February 21, 1985 meeting were inaccurate and possibly invalid. Evidence at hearing indicated that the R held a meeting on December 17, 1984, not December 19, 1984.
4. The complainant further alleged that the respondent's February 21, 1985 meeting was conducted without a quorum. Nothing in the Freedom of Information Act, however, prohibits a public agency from meeting with less than a quorum.
5. On March 14, 1985 the respondent placed on file minutes of its December 17, 1984, January 24, 1985, and February 7, 1985 special meetings. Such minutes were not made available to the public within 7 days of such meetings, in violation of §1-21(a), G.S.

6. Minutes of the respondent's February 21, 1985 meeting were made available to the public on March 1, 1985, in a timely manner. No evidence was offered at hearing that such minutes did not comply with the requirements of the Freedom of Information Act.

7. On February 7, 1985 the respondent provided its members with a schedule of future meeting dates. It is found, however, that the respondent failed to provide notice to the public of any of the meetings in question. The December 17, 1984 and January 24, 1985 meetings of the respondent were held more than 30 days prior to the filing of the complainant's complaint and are, therefore, not matters over which this Commission has jurisdiction.

8. The complainant claims that the December 17, 1984 and January 24, 1985 meetings were "unnoticed" within the meaning of §1-21i(b), G.S. and that this Commission, therefore, has jurisdiction over such meetings. However, the complainant had notice in fact of the holding of such meetings more than thirty days prior to the filing of her complaint.

9. It is concluded that the respondent violated §1-21(a), G.S. when it failed to provide public notice of its February 7, 1985 and February 21, 1985 meetings.

10. There was no indication at hearing that the respondent, a temporary committee, filed a schedule of regular meetings. If no schedule was filed, each meeting of the respondent was a special meeting. §1-21(a), G.S. requires the filing and posting of notices of special meetings, which notices must specify the time and place of the meeting and the business to be transacted. The Commission notes that references at hearing were to the filing and posting of "agendas," rather than "notices." When an adequate notice of special meeting is properly filed and posted, the language of §1-21(a), G.S. does not require the additional filing of an agenda.

11. The respondent claims that it has finished its limited task of advising the board of selectmen of the Town of Bethel regarding removal of asbestos from the Bethel High School and that an order from this Commission regarding future conduct would therefore, be without effect.

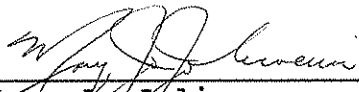
12. It is found that the respondent is composed, in part, of persons who serve as members of other multi-member public agencies. The Commission, however, hereby declines the complainant's request for the imposition of a civil penalty pursuant to §1-21i(b), G.S.

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

1. The members of the respondent, in their capacities as public officers or employees, shall henceforth act in strict compliance with the requirements of §1-21(a), G.S. regarding notice and minutes of meetings of public agencies.

2. Although the Commission has declined the complainant's request for the imposition of a civil penalty, the members of the respondent are advised that future violations of the Freedom of Information Act, as members of the respondent or of other public agencies, could subject them to the imposition of such penalties.

Approved by order of the Freedom of Information Commission at its regular meeting of August 28, 1985.



Mary Jo Jolicoeur
Clerk of the Commission