

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Delores Fortuna

FINAL DECISION

Complainant

Docket #FIC 85-132

against

October 23, 1985

The Middletown Common Council
and the Town of Middletown

Respondent

The above captioned matter was heard as a contested case on August 30, 1985 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. By letter filed with the Commission on April 15, 1985, the complainant alleged that on April 10, 1985 she requested the minutes of the April 1, 1985 meeting of the respondent and that the minutes were unavailable.
3. By letter filed with the Commission on June 17, 1985, the complainant alleged that on April 1, 1985, the respondent considered an item which was not on the agenda for the meeting.
4. Pursuant to §1-21i(b), G.S., the Commission does not have jurisdiction over the allegation concerning the April 1, 1985 agenda because the complainant's letter was filed on June 17, 1985, more than thirty days after the April 1, 1985 meeting.
5. The respondent moved to dismiss the allegation regarding the request for minutes on the grounds that the minutes were sent to the complainant on August 9, 1985.
6. It is concluded that the complaint should not be dismissed because the allegation concerning the availability of the minutes was not cured by sending the minutes on August 9, 1985.

7. On April 10, 1985, the complainant requested a copy of the April 1, 1985 minutes at the mayor's office.

8. The city stenographer told the complainant that she had not finished transcribing the minutes from the tape recording of the meeting and that the minutes would be ready around May 6, 1985.

9. §1-21(a), G.S., provides that minutes shall be available for public inspection within seven days of the meeting to which they refer. §1-21(b), G.S., provides that in determining the time within which information must be made available under §1-21(a), G.S., Saturdays, Sundays and legal holidays are excluded.

10. The unavailability of the minutes on April 10, 1985 did not violate §1-21(a), G.S., because April 5 was a legal holiday, April 6 was a Saturday, and April 7 was a Sunday. Therefore, pursuant to §§1-21(a) and 1-21(b), G.S., the minutes were required to be available by April 11, 1985.

11. The minutes were available on April 15, 1985.

12. The respondent claimed that the delay was caused by a heavy workload and that the delay did not constitute a violation of the spirit of the Freedom of Information Act.

13. It is found that a heavy workload does not exempt public agencies from the requirements of §1-21, G.S., regarding the timely filing of minutes.

14. It is concluded that the respondent violated §1-21, G.S., because the minutes of the April 1, 1985 meeting were not available for public inspection within seven days of the meeting, excluding Saturdays, Sundays and legal holidays.

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

1. Henceforth, the respondent shall act in strict compliance with the provisions of §1-21, G.S., with regard to the timely filing of minutes.

Approved by order of the Freedom of Information Commission at its regular meeting of October 23, 1985.



Mary Jo Jolicoeur
Clerk of the Commission