

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by  
Jonathan G. Clarke and  
S.C.O.R.E.,

FINAL DECISION

Complainants

Docket #FIC 85-209

against

Goshen Planning Commission  
of the Town of Goshen

Respondent

August 13, 1986

The above captioned matter was heard as a contested case on December 27, 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. The respondent held a regular meeting on October 1, 1985, the agenda for which included under the title "old business," the agenda item "Evergreen Landing." At such meeting the respondent approved a subdivision application for Evergreen Landing.
3. By letter dated July 8, 1985, the complainants made a request of the respondent for "timely notice of any meeting where [the proposed Evergreen Landing subdivision] appears properly on the agenda of the Planning Commission."
4. By letter of complaint filed with the Commission on October 10, 1985, the complainants alleged that the respondent had failed to provide notice to them of the October 1, 1985, meeting, in violation of §1-21c, G.S.
5. The complainants claimed that the respondent's failure to provide notice of the meeting in a timely manner deprived them of the opportunity to have legal counsel present.
6. The respondent admits that the complainants were not notified of the October 1, 1985, meeting and claims that the failure to notify was the result of the resignation of the recording secretary who was in charge of such notifications.

7. The complainants, who have filed an appeal of the respondent's subdivision approval in superior court, asked the Commission to declare null and void the respondent's approval of the subdivision and to impose civil penalties in the amount of \$542.03, the cost to the complainant, S.C.O.R.E., of appealing to court.

8. It is found that the respondent failed to provide the complainants with notice of its October 1, 1985, meeting, in violation of §1-21c, G.S.

9. It is found that the complainant, Jonathan G. Clarke, attends every meeting of the respondent and that he and at least one other member of the complainant, S.C.O.R.E., were present at the October 1, 1985, meeting.

10. It is also found that upon checking the agenda of the meeting on the morning of October 1, 1985, the complainant became aware that the issue of Evergreen Landing would be treated that evening.


11. It is found that the October 1, 1985, meeting was not held as a public hearing and that the respondent did not accept comments from those present. At such meeting the respondent refused to accept a petition submitted by S.C.O.R.E. asking that it be allowed to address the application for subdivision.

12. It is concluded that the complainants were not prejudiced in any meaningful way by the absence of their legal counsel. The Commission, therefore, declines to impose the civil penalty requested or to declare the respondent's action null and void.

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

1. The respondent shall henceforth act in strict compliance with the requirements of §1-21c, G.S.

Approved by order of the Freedom of Information Commission at its regular meeting of August 13, 1986.

  
Karen J. Haggett  
Clerk of the Commission