

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by FINAL DECISION

H. Maria Cone, Office of
Corporation Counsel and
the City of Hartford,

Complainants

against

Docket #FIC 85-223

State of Connecticut Board
of Mediation and Arbitration,
Department of Labor,

Respondent

August 13, 1986

The above-captioned matter was heard as a contested case on February 25, 1986, at which time the complainants 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. On March 1, 1985 the respondent held a hearing in the matter of "City of Hartford and International Brotherhood of Police Officers, Local 308," case number 8384-A-526, referred to as "the paternity case." An arbitration award was issued on July 25, 1985. The underlying matter in the case has since been settled.

2. By letter of complaint filed with the Commission on October 25, 1985 the complainant Cone alleged that on September 30, 1985 she became aware that the respondent "decided Case No. 8384-A-526 without benefit of a noticed meeting, a meeting or an executive session," claiming that such action violated the Freedom of Information Act.

3. At hearing the respondent moved to dismiss the complaint on the ground that the Commission failed to hold a hearing on the matter within 20 days. The respondent's motion was denied on the basis of the pendency of legislation which would address the Supreme Court's decision in Zoning Board of Appeals of the Town of North Haven v. FOIC, et al, 198 Conn. 498 (1986).

4. It is found that the respondent is composed of a "neutral" chairperson, in this case Roberta Getman, and that for each case considered one "management" representative and one "union" representative are designated.

5. Following the hearing on "the paternity case," Ms. Getman contacted Angelo Monitto, the management representative, expressed her opinion on the case and asked for his opinion. Ms. Gettman also discussed the matter with Raymond Shea, the union representative. The respondent provided no notice to the public of such discussions.

6. Approximately one month after the discussions referred to at paragraph 5, above, Mr. Monitto received a written decision from Ms. Getman. Mr. Monitto recorded his dissent and sent the decision on to Mr. Shea for his signature.

7. The respondent claims that the panel which heard and decided the paternity case was a quasi-judicial entity which does not function in an administrative manner when hearing and deliberating on grievance arbitrations, and therefore is not a public agency within the meaning of §1-18a(a), G.S.

8. The respondent also claims that pursuant to §31-100, G.S. the information submitted to it is not to be released to the public and that it cannot, therefore, hold a public meeting to deliberate. The respondent claims that there is no practical way of permitting the public to be present during deliberations without disclosing exhibits and testimony presented by the parties.

9. The respondent also claims that requiring even 24 hours prior notice of deliberations would impermissibly inhibit the functioning of the panel and that such a requirement would serve no purpose because, pursuant to §§31-100 and 1-18a(e)(5), G.S., each meeting would be held in executive session.

10. It is found that §1-18a(a), G.S. makes no exception for "quasi-judicial" entities. The respondent is not a judicial office, official or body or committee thereof within the meaning of §1-18a(a) and its claim that based upon the nature of its activities it is not a public agency within the meaning of §1-18a(a), G.S. is, therefore, without merit.

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

12. It is found that the communications, both in person and via telephone, between Ms. Getman and Mr. Monitto and between Ms. Getman and Mr. Shea on "the paternity case" were discussions upon a matter over which the respondent had supervision, control, jurisdiction or advisory power and that such discussions constituted meetings within the meaning of §1-18a(b), G.S.

13. It is also found that although the respondent may have a legitimate basis for conducting its deliberative discussions partially or entirely in executive session, such fact does not excuse the respondent from the requirements of §1-21(a), G.S. regarding public access to meetings. The respondent must provide notice of meetings and must open each meeting in public, even if it immediately thereafter convenes in executive session.

14. The respondent's claim that requiring notice of meetings 24 hours in advance would impermissibly inhibit its functioning is also without merit. The discussions of the respondent are no less amenable to the requirements of the Freedom of Information Act than are those of any other public agency.

15. It is concluded that the respondent violated §1-21(a), G.S. when it failed to provide public notice of its discussions regarding "the paternity case."

16. At hearing the complainant requested that the Commission declare the respondent's July 25, 1985 order null and void, which request is hereby denied.

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 §1-21(a), G.S. regarding notice of and access to meetings of public agencies.

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


Karen J. Haggett
Clerk of the Commission