

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Ralph W. Williams, The Journal
Inquirer,

FINAL DECISION

Complainant

Docket #FIC85-80

against

August 28, 1985

8th Utilities District of
Manchester,

Respondent

The above captioned matter was heard as a contested case on June 17, 1985 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. The respondent is a public agency within the meaning of §1-18a(a), G.S.
2. On March 18, 1985 the respondent held a regular meeting, during which it convened in executive session to "discuss real estate dealings."
3. By letter of complaint filed with the Commission on March 21, 1985 the complainants alleged that while convened in executive session on March 18, 1985 the respondent discussed matters other than the real estate transaction, that at least one such matter, discussion of how to finance construction of a firehouse on land owned by the respondent, was not a proper purpose for an executive session, and that no agenda for the meeting was made available to the public prior to the meeting, in violation of §1-21, G.S.
4. The complainants further alleged that the respondent had previously [in FIC 79-27, Ralph W. Williams and the Journal Inquirer v. Board of Directors of the Eighth Utilities District of the Town of Manchester] been ordered to comply with §1-21, G.S., that it had failed to comply with such order within the meaning of §1-21k, G.S., that its president, Walter H. Joyner, was familiar with the requirements of the Freedom of Information Act and that a civil penalty should be imposed against Mr. Joyner.
5. On March 18, 1985 a reporter for the complainant newspaper, Catherine Cofek, covered the respondent's meeting for another reporter who was unable to attend. Ms. Cofek was told by such other reporter that no agenda for the meeting was available. Ms. Cofek found that no agendas were on display at the meeting.

6. The respondent claims that an agenda was available to the public in its office prior to the March 18, 1985 meeting.

7. It is found that at the time of the March 18, 1985 meeting the respondent was using a pro forma agenda for all of its meetings, which agenda contained items such as "reports," "old/new business," and "public comments," without specific references to business to be discussed.

8. Nothing in the Freedom of Information Act requires an agency to post agendas or display them at its meetings. However, the pro forma document on file at the office of the respondent did not constitute an agenda for the March 18, 1985 meeting within the meaning of §1-21(a), G.S.

9. It is concluded that the respondent violated §1-21(a), G.S. by failing to file and make available to the public an agenda for its March 18, 1985 regular meeting.

10. At its May 20, 1985 regular meeting the respondent voted to amend its agenda to comply with the requirements of the Freedom of Information Act.

11. While convened in executive session on March 18, 1985 the R discussed the renting of the "Southern New England Telephone Co." ("SNETCO") building, possible means of financing the construction of a firehouse, a civil suit involving the Town of Manchester, and a personnel matter.

12. It is found that the announced purpose of the executive session did not reflect all items discussed, in violation of §1-21(a), G.S.

13. The complainants raised no claim with respect to the propriety of the discussion of the civil suit and the personnel matter.

14. It is found that to the extent that discussion in the March 18, 1985 executive session concerned funding options for the construction of a firehouse, such discussion was not a proper purpose for an executive session within the meaning of §1-18a(e), G.S.

15. It is found that prior to the March 18, 1985 meeting the president of the respondent was engaged in negotiations regarding the subletting of a garage. Information regarding the proposal was subsequently released, which information the president of the respondent considered embarrassing.

16. The respondent claims that it was engaged in competitive bidding with four other parties for the rental of the SNETCO building and that publicity regarding its effort to secure a lease would have escalated prices. Subsequent to the March 18, 1985 meeting negotiations terminated and the respondent did not lease the SNETCO property.

17. It is found that discussion of ongoing negotiations regarding the lease of the SNETCO building, where publicity regarding the lease might have resulted in an increased price, was a proper purpose for an executive session within the meaning of §1-18a(e)(4), G.S.

18. It is found that the facts of this case do not support a finding that the respondent violated an order of this Commission within the meaning of §1-21k. The Commission, therefore, declines to impose the penalty suggested by the complainants.

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

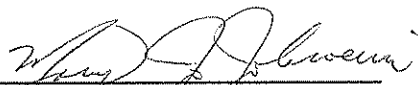
1. The respondent shall henceforth prepare meaningful and specific agendas for its regular meetings in compliance with the requirements of §1-21(a), G.S.

2. The respondent shall henceforth state the purposes for its executive sessions completely and accurately, in compliance with the requirements of §1-21(a), G.S.

3. The respondent shall henceforth convene in executive session only for one or more of the proper purposes described at §1-18a(e), G.S., taking care that discussions properly begun in executive session do not stray into areas appropriate only for public discussion.

4. The Commission suggests that members of the respondent familiarize themselves with the requirements of the Act, and cautions that future violations could subject them to the imposition of civil penalties pursuant to §1-21i(b), G.S.

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



Mary Jo Jolicœur
Clerk of the Commission