

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Samuel Njuguna,

FINAL DECISION

Complainant

Docket #FIC81-86

against

November 18, 1981

City and Town of New Haven;
Housing Authority of the City
and Town of New Haven

Respondents

The above captioned matter was heard as a contested case on September 14, 1981, at which time the complainant and the respondent housing authority appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint.

After consideration of the entire record, the following facts are found:

1. The respondent authority is a public agency as defined by § 1-18a(a), G.S.

2. By letter of complaint filed with the Commission on June 3, 1981, the complainant alleged that the respondent authority violated the Freedom of Information Act with respect to executive sessions held at its meetings on May 11, 1981 and May 21, 1981 and with respect to the notice and minutes of such meetings.

3. Specifically, the complainant, who served as Deputy Director of the respondent authority at all times material to the complaint and until his resignation on July 8, 1981, alleged that the respondent authority convened in executive session to discuss his job performance at its meeting of May 11, 1981 without adequate notice as required by §§ 1-21 and 1-18a(e)(1), G.S.

4. The complainant also alleged that the respondent authority convened in executive session at its May 21, 1981 meeting contrary to his request that all discussions of his job performance be conducted at public sessions.

5. The complainant further alleged that the minutes of the respondent authority's May 11, 1981 meeting were not prepared and made available as required by §§ 1-21, 1-15 and 1-19(a), G.S.

6. It is found that the respondent authority held a special meeting on May 11, 1981, the stated purpose for which was "personnel matters."

7. At the time of the May 11, 1981 meeting, the respondent authority informed the complainant that it would be considering certain complaints against him in his capacity as Deputy Director.

8. Upon being informed that the special meeting was in part to consider complaints against him, the complainant requested that all of the respondent authority's proceedings concerning his job performance be held in public session.

9. Notwithstanding the complainant's request, the respondent authority convened in executive session at its May 11, 1981 meeting.

10. It is found that the respondent authority failed to provide meaningful notice of the purpose of the May 11, 1981 meeting and executive session and to accord the complainant a meaningful opportunity to invoke his right to a public session, as provided by § 1-18a(e)(1), G.S.

11. It is therefore concluded that the meeting and executive session of the respondent authority on May 11, 1981 were technically in violation of §§ 1-21 and 1-18a(e)(1), G.S., although there was no showing that either the complainant or the public was, in fact, denied access to such meeting or session.

12. It is also found that the respondent authority held a special meeting on May 21, 1981, in part to consider the complainant's performance as Deputy Director.

13. At the May 21, 1981 meeting the complainant reiterated his request that all consideration of his job performance be held in public session.

14. During the May 21, 1981 meeting the respondent authority met in private concerning the complainant's employment situation.

15. The purported purpose of this private session was "to discuss procedures for continuing the meeting."

16. In fact, the members of the respondent authority met in private with their counsel, at which time he advised them that they were free to make any public statements and take any action that they wished concerning the complainant's employment.

17. It is found that the private meeting of the respondent authority held on May 21, 1981 constituted an executive session.

18. It is also found that the executive session held on May 21, 1981 was not convened in accordance with the procedures set forth in § 1-21, G.S., and was not held with the complainant's consent as required by § 1-18a(e)(1), G.S.

19. It is further found that the executive session of May 21, 1981 was not held for any purpose permitted by § 1-18a(e), G.S.

20. It is therefore concluded that the executive session of the respondent authority on May 21, 1981 was in violation of sections 1-21 and 1-18a(e), G.S.

21. It is also found that the complainant failed to prove by any credible evidence that the minutes of the May 11, 1981 and May 21, 1981 meetings were not prepared and made available to the public within the time periods required by § 1-21, G.S.

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

1. All actions taken at the meeting of the respondent authority on May 21, 1981 are hereby declared null and void.

2. Nothing herein shall be construed as implying bad faith on the part of the respondent authority in the conduct of its meetings of May 11, 1981 and May 21, 1981.

3. Likewise, nothing herein shall be construed as commenting adversely on the merits of the complainant's position with respect to the personnel dispute between him and the respondent authority.

Approved by order of the Freedom of Information Commission at its regular meeting of November 12, 1981.



Mary Jo Jolicœur
Clerk of the Commission