

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Robert W. Ordazzo,

Complainant

against

City and Town of West Haven; Chief,
Allington Fire District/West Haven;
Board of Fire Commissioners of
Allington Fire District/West Haven,

Respondents

Report of Hearing Officer

Docket #FIC81-131

January 18, 1982

The above captioned matter was heard as a contested case on November 25, 1981, at which time the complainant and the respondent board 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 board is a public agency as defined by §1-18a(a), G.S.
2. By letter dated July 22, 1981, the complainant made a request to the Chief of the Allington Fire District and to the respondent board for a copy of, or access to, the minutes of the June, 1981 and July, 1981 meetings of the respondent board.
3. On July 24, 1981, the complainant received documents purporting to be the minutes of the June 9 and July 7, 1981 meetings of the respondent board.
4. By complaint filed with the Commission on July 27, 1981, the complainant alleged that the documents referred to in paragraph 3, above, were not the original minutes of the meetings, but were "rewritten as not to disclose what happen[ed] at these meetings," and that the rewriting of such minutes constituted a violation of the Freedom of Information Act.
5. The complainant further requested in his July 27, 1981 complaint to the Commission that those involved in the alleged alteration of the respondent board's minutes be prosecuted for wilful violation of the law.
6. It is found that following the June 9 and July 7, 1981 meetings of the respondent board, minutes describing both the public and executive session portions of such meetings were prepared.
7. It is found that at some time on or before July 24, 1981, the minutes of the June 9 and July 7, 1981 meetings of the respondent board were retyped and that in such retyped versions, the minutes of the executive session portions of such meetings were omitted.

8. It is found that the failure of the respondent board to provide the complainant with a complete copy of the minutes of its June and July, 1981 meetings was due to a sincere belief that non-disclosure of the minutes of an executive session was permitted by §1-18a(e), G.S.

9. Neither §1-18a(e)(1), G.S., nor any other provision of the Freedom of Information Act, exempts from disclosure minutes of executive sessions.

10. In the absence of federal law or state statutes providing a specific exemption to disclosure, all records which relate to the conduct of the public's business and are prepared, owned, used, received or retained by any public agency are public records, pursuant to §1-19(a), G.S.

11. It is found that minutes of the respondent board's executive sessions are public records.

12. It is, therefore, concluded that the respondent board violated §§1-15 and 1-19(a), G.S., when it failed to provide the complainant with a complete copy of the minutes of its June 9 and July 7, 1981 meetings as such minutes were originally prepared, and as they existed at the time of the complainant's July 22, 1981 request.

13. §1-21k, G.S. is a criminal statute, the investigation and prosecution for which are within the jurisdiction of the criminal justice division of the judicial department pursuant to §51-276, G.S.

14. It is, therefore, concluded that the Commission lacks, and declines to exercise, jurisdiction over the complainant's request as stated in paragraph 5 relating to his allegation of a violation of §1-21k, G.S.

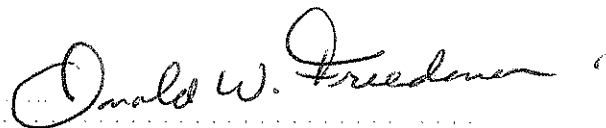
15. It is found that executive sessions held at the June and July, 1981 meetings of the respondent board were not convened in accordance with the procedures set forth in §1-21, G.S., in that the requisite votes were not taken to convene in executive session, nor were proper purposes stated for such sessions.

16. It is, therefore, concluded that the executive sessions of the respondent board on June 9, 1981 and July 7, 1981 were technically in violation of §§1-21 and 1-18a(e), G.S.

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


1. The respondent board shall forthwith provide the complainant with a complete copy of the minutes of its June and July, 1981 meetings as such minutes were originally prepared.

2. Henceforth the respondent board shall convene in executive session in strict compliance with the procedures set forth in §1-21, G.S. and only for one or more of the purposes set forth in §1-18a(e), G.S.



Donald W. Friedman
as Hearing Officer

Approved by order of the Freedom of Information Commission
at its regular meeting of February 24, 1982.



Mary Jo Jolicoeur
Clerk of the Commission