

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Anthony O'Brien,

Complainant

against

Town of New Fairfield; Board of
Finance of the Town of New
Fairfield,

Respondents

Report of Hearing Officer

Docket #FIC81-194

May 18, 1982

The above captioned matter was heard as a contested case on March 22, 1982 in conjunction with Docket #FIC81-193 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 of complaint mailed by the complainant on November 30, 1981 and received by the Commission on December 7, 1981, the complainant alleged as follows:
 - a) That the public was deprived of notice of meetings of the respondent board;
 - b) That the respondent board had planned actions in secret meetings; and
 - c) That the respondent board had planned a series of resignations timed to restrict public access to the appointment process.

The complainant requested that actions taken at the respondent board's November 9, 1981 and November 16, 1981 meetings be declared null and void.

3. At hearing, the respondent objected to the hearing of the complaint on the ground that the complaint was not heard within thirty days of its receipt, which objection was overruled on the ground that the relevant language of §1-21i(b), G.S. is directory and not mandatory.

4. Also at hearing, the respondent board moved to dismiss the complaint on the ground that the complainant was present at the meetings in question, and therefore was not deprived of any right under the Freedom of Information Act, which motion was denied.

5. It is found that at 11:50 a.m. on Saturday, November 7, 1981, the respondent board posted notice of a special meeting to be held at 8:00 p.m. on Monday, November 9, 1981 to fill two vacancies on such board.

6. It is found that the town clerk's office is closed on Mondays, and is open on Saturdays from 8:30 a.m. until 12:00 noon.

7. The complainant claims that because the town clerk's office was closed for all but ten minutes of the time between the posting of notice and the special meeting itself, the respondent board failed to post such notice twenty four hours in advance of the meeting, as required by §1-21, G.S.

8. The respondent board claims that the special meeting language of §1-21, G.S. requires only that notice be posted twenty four hours in advance of a special meeting, whether or not there is public access to such notice during any of the twenty four hours.

9. It is found that the legislature in drafting the twenty four hour posting requirement for special meetings in §1-21, G.S., contemplated that the offices of the town clerks would be open for business during only a portion of the twenty four hours preceding special meetings.

10. It is found, however, that §1-21, G.S., contemplates that public notice of special meetings be provided at a meaningful time and in a meaningful manner.

11. It is found that the notice in question was not provided at a meaningful time and in a meaningful manner.

12. It is concluded that the respondent board violated §1-21, G.S. in the posting of the notice of its November 9, 1981 meeting.

13. The complainant alleged that the respondent board met in secret and planned a series of the resignations which had the effect of changing the political composition of the respondent board.

14. The complainant failed to prove, however, that any secret meetings were actually conducted in violation of §1-21, G.S.


15. It is further found that orchestrating a change in the political composition of a public agency does not, in and of itself, constitute a violation of the Freedom of Information Act.

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

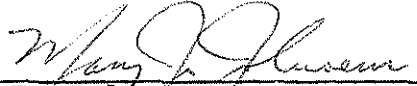
1. Henceforth the respondent board shall act in strict compliance with §1-21, G.S. in the posting of notices of its special meetings.

2. The complaint is hereby dismissed with regard to the allegations contained in paragraphs 2(b) and 2(c) of the findings, above.

3. The Commission suggests that the respondent board devise a method of posting notices in a place accessible to the public even when the town clerk's office is closed.


Commissioner Donald W. Friedman
as Hearing Officer

Approved by order of the Freedom of Information Commission at its regular meeting of June 23, 1982.



Mary Jo Jolicœur
Clerk of the Commission