

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Melvin J. Silverman (Spectacle
Holding Corp.)

FINAL DECISION

Complainant

Docket #FIC84-42

against

July 25, 1984

Wilton Planning and Zoning
Commission of the Town of
Wilton,

Respondent

The above captioned matter was heard as a contested case on May 8, 1984 at which time the complainant 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. At a regular meeting held on February 27, 1984 the respondent acknowledged receipt of a letter from residents of Spectacle Lane voicing their concerns about a development instituted by the Spectacle Lane Holding Group. Two members of the respondent felt that research into the problems was necessary and that a legal opinion from an alternate counsel should be sought, since town counsel was the owner as trustee of property involved in or abutting the development.
3. On March 5, 1984 the respondent held a regular meeting, the agenda for which included the item "3. Request to Board of Selectmen to Appoint Alternate Counsel Re: Spectacle Lane & Spectacle Lane Holding Group Development."
4. At the March 5, 1984 meeting the respondent voted to ask the first selectman to appoint Lawrence Weisman as alternate counsel to write an opinion on the issues of the Spectacle Lane development.
5. Also at the March 5, 1984 meeting the respondent voted to instruct the building department to decline to issue new building permits for Spectacle Lane Holding Corporation land until the investigation was completed.

6. By letter of complaint filed with the Commission on March 14, 1984 the complainant alleged that the respondent's action with respect to building permits had been taken without notice to the Spectacle Holding Corporation and without the matter having appeared on the agenda of the March 5, 1984 meeting, in violation of the Freedom of Information Act.

7. At hearing, the complainant requested that the actions of the respondent on March 5, 1984 be declared null and void and that the Commission impose a civil penalty against the respondent.

8. The respondent concedes that the agenda for the March 5, 1984 meeting was not sufficiently specific to encompass the action taken with respect to the building permits, but claims that the lots were being sold rapidly and that its action was a restrained, judicious and necessary response to the situation.

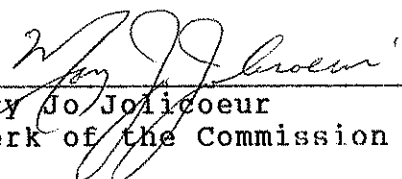
9. The Commission finds that the respondent violated §1-21, G.S. when it took action on a non-agenda item on March 5, 1984 without a 2/3 vote to consider a non-agenda item.

10. The Commission finds that neither a civil penalty nor an issuance of a null and void order is appropriate under the circumstances.

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

1. Henceforth the respondent shall act in strict compliance with the requirements of §1-21, G.S. regarding the taking of action on non-agenda items at regular meetings.

Approved by order of the Freedom of Information Commission at its regular meeting of July 25, 1984.



Mary Jo Jolicœur
Clerk of the Commission