

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
James J. Honis,

FINAL DECISION

Complainant

Docket #FIC84-83

against

September 26, 1984

Board of Police Commissioners of
the City and Town of Bridgeport,

Respondent

The above captioned matter was heard as a contested case on July 2, 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. Article XVI, Section 2(a) of the contract between the city of Bridgeport and Employees Local 1159 AFSCME, AFL-CIO provides that "[a]ll current and future members of the Bridgeport Police Department, as a condition of their continued employment with the Bridgeport Police Department, must maintain a bona fide residence within the City of Bridgeport during the term of this Agreement."
3. On May 8, 1984, as a result of concerns raised by the complainant, the respondent met in executive session with two police officers and their lawyers to discuss whether the officers met the residency requirements of the above contract. At the conclusion of the executive session the respondent announced its finding that the officers were residents of Bridgeport.
4. At hearing, Gary Kelly and Frank Resta, the officers discussed in executive session, were granted intervenor status to participate at the hearing level.
5. By letter of complaint filed with the Commission on May 17, 1984 the complainant alleged that the May 8, 1984 discussion, of which he had not been informed, had been held in executive session in violation of the Freedom of Information Act. The complainant requested that the actions of the respondent on May 8 be declared null and void and that further discussions of the same issue be held in public session.

6. The agenda for the May 8, 1984 meeting included the following item: "Request by the Board of Police Commissioners for A/Sgts. Gary Kelly and Frank Resta to be present at this Board Meeting to answer questions relative to their place of residence."

7. It is found that because the May 8, 1984 discussion did not concern the appointment, employment, performance, evaluation, health or dismissal of the complainant, personal notice to him of the proposed discussion was not required by §1-18a(e)(1) or §1-21, G.S.

8. During the executive session no exhibits were offered or taken. Members of the respondent, however, had before them documents dealing with the issue of the officers' residency.

9. The respondent claims that some of the documents, dealing with the personal lifestyles of the two officers, were exempted from disclosure by §1-19(b)(2) and that the executive session was therefore a proper one pursuant to §1-18a(e)(5), G.S.

10. It is found that the respondent failed to prove that anything contained in the documents being discussed on May 8 would, if disclosed, constitute an invasion of the officers' privacy.

11. It is therefore concluded that the May 8 executive session was not held for a proper purpose within the meaning of §1-18a(e)(5), G.S.

12. The respondent also claims that the executive session was properly held pursuant to §1-18a(e)(1) to question the officers regarding their residency.

13. Nothing in the union contract or in the city charter defines the requirements of residency or the criteria to be used in determining residency.

14. It is found that to the extent that while convened in executive session the respondent discussed residency in terms of what it comprised or what criteria to look to, such executive session was not held for a proper purpose within the meaning of §1-18a(e)(1), G.S.

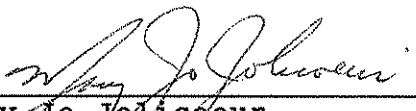
15. It is found that to the extent that while convened in executive session the respondent discussed the particular elements of the officers' claim of residency, such executive session was held for a proper purpose within the meaning of §1-18a(e)(1), G.S.

16. The Freedom of Information Commission hereby declines to declare the respondents's May 8 actions null and void.

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 convene in executive session only for one or more of the proper purposes contained in §1-18a(e), G.S.

Approved by order of the Freedom of Information Commission at its regular meeting of September 26, 1984.



Mary Jo Jolicœur
Clerk of the Commission