

Freedom of Information Commission
of the State of Connecticut

In the Matter of a Complaint by)
Edward A. Peruta, Complainant) Report of Hearing Officer
against) Docket #FIC 76-34
Town of Rocky Hill and the Town) March 22, 1976
Council of the Town of Rocky
Hill, Respondents)

1. The respondents are public agencies, being a municipal subdivision and its legislative body.
2. The respondent Council conducted a duly-noticed regular meeting on January 16, 1976, which was a legal holiday under the laws of the State of Connecticut.
3. The complainant was present at the meeting and participated in its proceedings at that time and place.
4. The agenda item in which the complainant was interested was the Council's consideration of a subcommittee report that referred to the complainant's employment relationship with the Town.
5. During the course of the meeting, the complainant was permitted to address the Council for the purpose of presenting his arguments against the conclusions set forth in the subcommittee report. The Council thereafter voted to accept and implement that report.
6. During the hearing before the hearing officer the complainant withdrew his request for relief as to any act of the Council at this meeting other than the acceptance of this subcommittee report.
7. The complainant claims relief by way of an order declaring void the Council's vote to accept the subcommittee report.
8. In support of such remedy, the complainant testified before the hearing officer that he would have had another twenty-four hours in which to have prepared himself to address the Council, if it had held its meeting on the day immediately after the regularly scheduled meeting date.
9. The complainant again addressed the Council in order to request it to reconsider acceptance of the subcommittee report when the Council again convened on March 1, 1976, at a regularly scheduled meeting. At that time complainant had available to him such added data, arguments, and exhibits as he desired for the purpose of presenting his request for rejection of the subcommittee report concerning him. After hearing

the complainant's added presentation, the Council considered the complainant's arguments and exhibits and decided not to reverse its prior action concerning the subcommittee report.

10. Sec. 14(b) of Public Act 75-342 provides a remedy for deprivation of access to a meeting. It also applies to the case where access is denied when a meeting is held in violation of the public agency's by-laws or in violation of any general statute.

11. In this instance the date of the regular meeting fell on a holiday; and section 10 of Public Act 75-342 provided in that event that such a regular meeting shall be held on the next business day.

12. In its sound discretion this Commission may declare null and void any or all actions taken at any meeting to which the complainant was denied access under section 14(b) of Public Act 75-342.

13. In deciding whether or not to declare null and void the Council's acceptance of the subcommittee report, this Commission is mindful of the following guidance:

"It must be borne in mind, however, that we are dealing with a group of laymen who may not always express themselves with the nicety of a Philadelphia lawyer. Courts must be scrupulous not to hamper the legitimate activities of civic administrative boards by indulging in a microscopic search for technical infirmities in their actions."
(Couch v. Zoning Commission, 141 Conn. 349, 358, 1954)


14. The purpose of Public Act 75-342 is to provide access to know what occurs at meetings rather than to protect any right to be heard or to provide some undefined form of due process in connection with the operation of any public agency.

15. Although the regular meeting of the Council should have been held on another day, it must be concluded that the complainant was not deprived of access to the meeting. The Council's action relating to the subcommittee report concerning the complainant should not be held to be void.

The following Order is hereby recommended:

1. The respondents are ordered to review and revise the Council's schedule of regular meetings in order to provide for the rescheduling of any regular meetings for the current period whose dates now fall on a legal holiday.

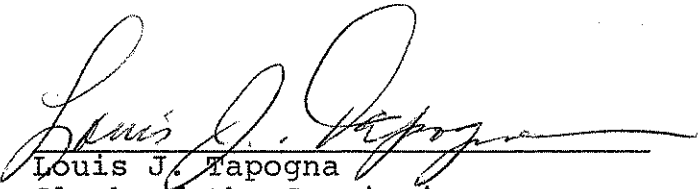
2. The respondents are further ordered to report to this Commission the results of such review and revision for the purpose of bringing the schedule of regular meetings into compliance with section 10 of Public Act 75-342.



Commissioner Judith A. Lahey

as Hearing Officer

Approved by order of the Freedom of Information Commission
on April 14, 1976.



Louis J. Tapogna
Clerk of the Commission