

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by William DiMeo, Complainant	)	Report of Hearing Officer
	)	
against	)	Docket #FIC77-52
	)	
City and Town of New Britain and Zoning Board of Appeals of the City and Town of New Britain, Respondents	)	April 13, 1977

The above captioned matter was heard as a contested case on April 6, 1977, at which time the complainant and the respondent board appeared and presented testimony, exhibits and argument on the complaint.

After consideration of the entire record, the following facts are found:

1. The respondent board of appeals is a public agency within the meaning of §1-18a(a), G.S.
2. At a meeting held on February 22, 1977, a quorum of the respondent board of appeals met in executive session to discuss, among other things, a certain application for variance, which application was made to the respondent board by the complainant herein.
3. The gravamen of the complaint brought by the complainant and filed with this Commission on March 4, 1977, alleged that such discussion was not a proper purpose under §1-18a(e), G.S. for holding an executive session, and further that the respondent board has failed, with respect to the same meeting, to comply with the time requirements concerning the filing of a record of votes as required by §1-21, G.S.
4. It is found that the aforesaid discussion of the respondent board of appeals does not fall within one of the purposes for which the public may be excluded from a meeting of a public agency within the meaning of §1-18a(e), G.S.
5. There was a vote concerning the aforesaid application for variance and such vote occurred in the executive session of February 22, 1977.
6. Such vote was not reduced to writing and filed with the clerk of the respondent city and town within forty-eight hours.
7. It is further found that the respondent board of appeals did not make its record of vote concerning the aforesaid application for variance available for public inspection within the time required by §1-21, G.S.

8. In its sound discretion this Commission may declare null and void any and all actions taken at any meeting to which the complainant was denied access under §1-21i(b), G.S.

9. The complainant was present at the public portion of the meeting of February 22, 1977. At some time in the course of this meeting a member of the respondent board of appeals announced that the board would presently be meeting in an executive session to which the public would be excluded.

10. The complainant did not attend the February 22, 1977 executive session of the respondent board of appeals vis-a-vis the above announcement.

11. The complainant seeks the relief permitted by §1-21i(b), G.S., that is, that this Commission declare a nullity the action taken concerning his application for variance.

12. The respondent board of appeals asks that this Commission not impose the above sanction because, as it contended, the complainant at the hearing herein had failed to show that he was prejudiced by the denial of his right to attend the aforesaid executive session.

13. Without making a finding as to prejudice, this Commission notes that 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.


14. Insofar as the discussion referred to in paragraph 2 hereinabove is not a proper purpose for closing a meeting to the public as found in paragraph 4 of this finding, it is concluded that the complainant was wrongfully denied his right to attend a meeting of a public agency within the meaning of §1-21i(b), G.S.

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

1. The vote of the respondent board of appeals at its February 22, 1977 meeting concerning the aforesaid application for variance is hereby declared null and void.

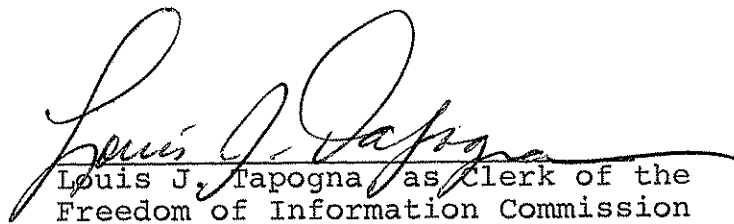
2. Henceforth, the respondent board of appeals shall meet in executive session only for those purposes stated in §1-18a(e), G.S.

3. Henceforth, the respondent board of appeals shall strictly comply with the time requirements of §1-21, G.S. concerning the production of and filing of a record of votes of its meeting as required therein.

  
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Commissioner Judith Lahey

as Hearing Officer

Approved by order of the Freedom of Information Commission on  
April 27, 1977.

  
Louis J. Tapogna, Clerk of the  
Freedom of Information Commission