

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Thomas W. Caruso,

Complainant

Report of Hearing Officer

against

Docket #FIC78-171

Farmington Valley Health Dis-
trict Board of Directors; ~~Chairman~~
Director of the Farmington
Valley Health District Board
of Directors; and Chairman
of Farmington Valley Health
District Board of Directors,
Respondents

May 9, 1979

The above captioned matter was heard as a contested case on October 23, 1978, at which time the complainant and respondents appeared and presented testimony and argument on the complaint.

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

1. The respondents are public agencies within the meaning of §1-18a(a), G.S.

2. On August 9, 1978 the complainant was excluded from a meeting of the respondent board when the respondent board went into executive session.

3. The respondent board said the purpose for the executive session was pending litigation.

4. By letter filed with this Commission September 5, 1978 the complainant alleged that no litigation was pending and that therefore he was improperly excluded from the aforesaid meeting in violation of §1-21, G.S.

5. The executive session was held in order that the respondent board could interview a lawyer whom it hoped to retain to help them file a civil action to enforce an inspection requirement against a certain individual who would not permit inspections which were required by the state health code.

6. The reason stated for the executive session was "pending litigation."

7. The substance of the executive session was a presentation by the lawyer which showed the lawyer's qualifications and knowledge of the type of civil action which he would use to solve the enforcement problem faced by the respondent board.

8. Subsequently, the respondent board did hire the lawyer whom it interviewed in the executive session, although it never filed the enforcement action which it considered in the executive session.

9. The respondents claimed that the executive session was proper under §1-18a(e)(2), G.S. as strategy and negotiations with respect to pending claims and litigation and under §1-18a(e)(1), G.S. as discussion concerning the appointment and employment of a public officer.

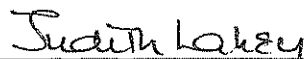
10. No strategy or negotiations with respect to pending claims and litigation was discussed at the aforesaid executive session.

11. It is found that the aforesaid interview of the lawyer prior to the decision of whether to retain him is not discussion concerning the appointment or employment of a public officer.

12. It is concluded, therefore, that the executive session was not held for a proper purpose within the meaning of §1-18a(e)(2) or §1-18a(e)(1), G.S.

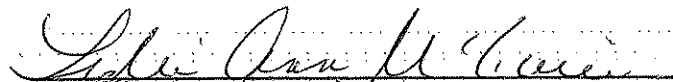
The following order by the Commission is hereby recommended on the basis of the record concerning the above captioned complaint:

1. The respondents shall henceforth comply with §1-21, G.S. and §1-18a(e), G.S.



Commissioner Judith Lahey
as Hearing Officer

Approved by order of the Freedom of Information Commission on May 23, 1979.



Leslie Ann McGuire
Clerk of the Commission