

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Dean R. Singewald,

Report of Hearing Officer

Complainant

Docket #FIC81-5

against

November 2, 1981

Town of Branford; and Planning
and Zoning Commission of the Town
of Branford,

Respondents

The above captioned matter was heard as a contested case on September 22, 1981, at which time the complainant and the respondents appeared, stipulated to certain facts, and presented testimony and argument on the complaint.

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

1. The respondent commission is a public agency as defined by § 1-18a(a), G.S.
2. On December 11, 1980 the respondent commission held a public hearing to consider a special use permit application.
3. During the above public hearing the members of the respondent commission recessed to discuss a jurisdictional question relating to the use permit application.
4. During the recess referred to in paragraph 3 above, the members of the respondent commission, together with a non-member consultant, met in a room other than the one in which the public hearing was being held.
5. While removed from the public hearing, the members of the respondent commission, with the consultant, discussed the issue of whether to proceed with consideration of the special use permit application in light of the jurisdictional question, and at that time decided to "table" the application.
6. Other than the commission members, a consultant and, perhaps inadvertently, the complainant, no members of the public attended the "recess" meeting, although between 80 and 100 members of the public remained in the room in which the public hearing was being held.
7. Upon the reconvening of the public hearing the applicant for the special use permit withdrew the application, whereupon the respondent commission adjourned the public hearing.

8. It is found that the gathering held during the recess referred to above was a meeting within the meaning of § 1-18a(b), G.S.

9. It is also found that such meeting was not convened properly as an executive session, in accordance with § 1-21, G.S., nor was any proper purpose, as enumerated in § 1-18a(e), G.S., stated for excluding the public from such meeting.


10. It is also found that the public was not given notice of nor the opportunity to attend the "recess" meeting, in violation of § 1-21, G.S.

11. It is further found that while meeting in private the respondent commission reached a decision on a matter relating to the public hearing, although the votes of each member on such decision were not reduced to writing and the decision was not included in the minutes of the meeting, in violation of § 1-21, G.S.

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

1. Henceforth the respondent commission shall conduct its meetings in strict compliance with § 1-21, G.S.

2. The Commission notes that compliance with the Freedom of Information Act is an important responsibility and is mandatory at all times, not only when an agency deems it convenient or feels that to do otherwise will cause demonstrable harm.



Commissioner Helen Loy
as Hearing Officer

Approved by order of the Freedom of Information Commission
at its regular meeting of November 25, 1981.



Mary Jo Jolicoeur
Clerk of the Commission