

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Jack Shea (Hartford Courant),

Report of Hearing Officer

Complainant

Docket #FIC81-48

against

November 2, 1981

City and Town of Stafford; and
Water Pollution Control Authority
of the City and Town of Stafford,

Respondents

The above captioned matter was heard as a contested case on September 24, 1981, at which time the complainant and the respondent authority appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint.

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

1. The respondent authority is a public agency as defined by § 1-18a(a), G.S.
2. Twice during a special meeting held on March 20, 1981, the respondent authority voted to go into executive session, citing as its reason the discussion of pending claims and litigation relating to complaints from the public about its levying of sewer user assessment charges.
3. On April 8, 1981, the complainant filed a complaint with the Commission alleging that the two executive sessions referred to in paragraph 2, above, violated the Freedom of Information Act in that on March 20, 1981 no litigation involving the sewer user assessment charges was pending.
4. The respondent authority claimed by way of defense that the two executive sessions were held for proper purposes within the meaning of § 1-18a(e)(2), G.S., because they were held for discussion of pending claims and litigation.
5. It is found that, prior to March 20, 1981, the respondent authority had received numerous complaints regarding the sewer user assessment charges and that a group of Stafford residents had hired an attorney to represent its interests in the matter of the assessment charges.
6. It is found that the informal complaints from the public regarding sewer user assessment charges and the threats of litigation, however sincerely perceived, do not lead to the conclusion that on March 20, 1981, there were pending claims or litigation within the meaning of § 1-18a(e)(2), G.S.

7. It is also found that the first executive session on March 20, 1981 was in reaction to the unruly conduct of the public attending the special meeting, from which the respondent authority wished to withdraw.

8. It is further found that the respondent authority's desire to escape from the disruptive behavior of an outraged public was not a proper purpose for an executive session as those purposes are defined in § 1-18a(e), G.S.

9. It is therefore concluded that the first executive session of the respondent authority on March 20, 1981 was technically in violation of §§ 1-21 and 1-18a(e)(2), G.S.

10. It is found that the second executive session on March 20, 1981 was called to discuss what the authority perceived to be threats of litigation from members of the public attending the special meeting and from an attorney representing a citizen's group.

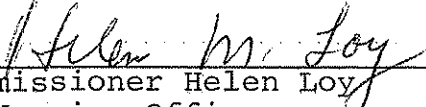
11. It is also found that calling an executive session to discuss the threats of litigation voiced at the meeting of March 20, 1981 was not a proper purpose for an executive session within the terms of § 1-18a(e), G.S., where there were no claims or litigation pending against the agency, or a member thereof, within the meaning of § 1-18a(e)(2), G.S.

12. It is therefore concluded that the second executive session of the respondent authority on March 20, 1981 was also technically in violation of §§ 1-21 and 1-18a(e)(2), 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 authority shall convene in executive session in strict compliance with the procedures set forth in § 1-21, G.S., and only for one or more of the purposes set forth in § 1-18(a)(e), G.S.

2. Nothing herein shall be construed as implying anything but the best of intentions on the part of the respondent authority in the conduct of its March 20, 1981 meeting or on the part of the complainant.



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 Jolicœur
Clerk of the Commission