

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

William J. Pape II (Waterbury
Republican and Waterbury
American,

Docket #FIC81-59

Complainant(s)

December 7, 1981

against

City and Town of Waterbury and
Board of Tax Review of the
City and Town of Waterbury,

Respondent(s)

The above captioned matter was scheduled for hearing on August 10, 1981 at which time the parties appeared and presented evidence 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. By letter filed with the Commission April 14 and amended April 23, 1981 the complainant alleged that the respondents had violated the Freedom of Information Act and §12-110 G.S. by

- 1) meeting every business day between March 10, 1981 and giving proper notice only of meetings held by it on March 28, 1981, March 30, 1981 and March 31, 1981.
- 2) failing to keep minutes of any meeting between March 10, 1981 and April 10, 1981
- 3) failing to make a record of votes available for public inspection for the period between March 10 to April 10, 1981.

3. The respondent board chairman distinguishes between meetings and "reviews" and claims that reviews are not meetings subject to the Freedom of Information Act.

4. The "reviews" are the gatherings of the respondents at which, or after which, the applications for review of assessment are signed.

5. The "meetings", as denominated by the chairman of the respondent board, are hearings on appeals to the respondent Board of Tax Review.

6. Section 12-110, G.S. sets forth notice requirements which are more extensive than those of the Freedom of Information Act for the hearings on appeals.

7. It is found that the Commission has no jurisdiction over alleged violations of §12-110, G.S.

8. Furthermore, since §1-21i, G.S. provides that the Commission has jurisdiction only over violations of the Freedom of Information Act which occur within thirty days of the filing of the complaint, the Commission can consider alleged violations of the Act which occurred within the period from March 15 to April 14.

9. During the time period in question notices of the hearings on appeals were posted in the town clerk's office and minutes were filed.

10. It is concluded that with respect to the hearings on appeals the complainant failed to prove that there were violations of the minutes and notice requirements of §1-21 and §1-19(a), G.S.

11. During the time period in question no notices were posted in the town clerk's office for the "reviews", nor were minutes kept, although such "reviews" did occur during that period, some of them on the spur of the moment.

12. At least two members of the Board of Tax Review were present for the "reviews", after or during which the applications for review of assessment were signed and finalized, with the signature of the absent commissioner being added later.

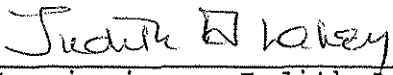
13. It is found that the "reviews" are in fact meetings of the Board of Tax Review within the meaning of §1-18a(b), G.S.

14. The respondent failed to prove that it had made the votes taken at its "reviews" available to the public as required by §1-21, G.S.

15. It is therefore concluded that notice of the time and business to be conducted at the "review", a record of the votes, and minutes of the "review" are required by §1-21, G.S. and §1-19(a), G.S. and that with respect to the "reviews" which were held between March 15 and April 14, 1981, the absence of notice, a record of votes, and minutes constituted a violation of §1-21, G.S. and §1-19a, G.S.


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

1. The respondent shall henceforth comply with the requirements of §1-21, G.S. and §1-19(a), G.S. by providing notice, votes, and minutes of its "reviews".



Commissioner Judith A. Lahey
as Hearing Officer

Approved by order of the Freedom of Information Commission at its regular meeting of January 27, 1982.



Mary Jo Jolicœur
Clerk of the Commission