

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by Journal Inquirer,)	
Complainant)	Report of Hearing Officer
against)	Docket #FIC78-129
Town of East Windsor; and the Board of Selectmen of the Town of East Windsor,)	September 27, 1978
Respondents)	

The above captioned matter was heard as a contested case on September 18, 1978, at which time the complainant and the respondents appeared and presented testimony, exhibits, 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 this Commission June 28, 1978, the complainant alleged that the respondent board violated the requirements of §1-21 and §1-18a(e), G.S. on June 1, 1978 by holding an executive session for an improper purpose and by failing to cite a proper reason for the session in its motion to go into executive session.

3. The respondent board held an executive session with the East Windsor police commission on June 1, 1978 for the stated purpose of discussing pending litigation.

4. During the aforesaid executive session the respondent board discussed with the police commission a certain claim filed by a police woman involving the issue of sex discrimination, and such related matters as the costs of such litigation, whether it was advisable to request additional funds for legal counsel, the impact of the litigation on the town and the public agencies of the town, and what could be done to prevent this kind of thing from happening again.

5. The respondent board claimed that the aforesaid executive session was held for a proper purpose within the meaning of §1-18a(e)(2), G.S. because it concerned strategy with respect to pending claims and litigation.

6. Counsel for the respondent board was not present at the aforesaid executive session.

7. There was no evidence that the respondent board or any of its members was a party to the litigation or the claim which was being discussed.

8. §1-18a(e)(2), G.S. limits the proper purpose of an executive session to strategy and negotiation with respect to pending claims and litigation to which the public agency, or a member thereof because of his conduct as a member of such agency, is a party.

9. It is concluded that the aforesaid executive session was not held for a proper purpose within the meaning of §1-18a(e)(2), G.S. in view of the broad scope of the discussion concerning the sex discrimination claim, the absence of counsel for the respondent board, and the failure of the respondent board to prove that it, or any of its members, was a party to the pending claim and litigation which was being discussed.


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

1. The respondent board shall henceforth limit its executive sessions to the proper purposes set forth at §1-18a(e), G.S.

2. Because the executive session itself was improper, the Commission finds it unnecessary to make a finding on the issue of whether the motion to go into executive session was properly framed.

3. The Commission observes that the findings in Docket #FIC78-130 and in this case suggest that certain agencies of the respondent town typically interpret §1-18a(e) too broadly and typically hold their executive sessions for improper purposes. The Commission regards this case as an opportunity to put the respondent board on notice that the executive session provisions of the Freedom of Information Act are to be interpreted strictly.

4. The Commission further calls attention to §1-21i(d), G.S. which provides for the imposition of fines upon public officials where rights created under the Freedom of Information Act are denied and such denial was wilful and there was no reasonable grounds for such denial.



Commissioner Helen Loy
as Hearing Officer