

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by  
Harvey Hubbell IV,

Complainant

Report of Hearing Officer

against

Docket #FIC78-170

Board of Education of the  
Town of Newtown,

Respondents

November 3, 1978

The above captioned matter was heard as a contested case on October 18, 1978 at which time the complainant and the respondent board appeared and presented testimony, exhibits and argument on the complaint.

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

1. The respondent board is a public agency as defined by §1-18a(a), G.S.
2. On August 22, 1978, a quorum of the respondent board proceeded into executive session to discuss "pending litigation."
3. At the conclusion of such session, the board reconvened the public portion of its meeting and voted to appeal a June 14, 1978 decision of the Freedom of Information Commission.
4. The complainant brought the present matter to the Commission by letter filed on September 5, 1978.
5. The thrust of the present complaint is that the discussion relating to the aforesaid decision to appeal was not a proper purpose for an executive session discussion.
6. Lawyers for the respondent board had instituted the aforesaid administrative appeal without the respondent board's prior authorization in order to preserve appeal rights.
7. After reconvening the public portion of the meeting of August 22, 1978, the respondent board voted to confirm the prior action of its attorneys with respect to such appeal.
8. Executive session discussions relating to pending claims and litigation are limited to "strategy and negotiations" as provided by §1-18a(e)(2), G.S.
9. The executive session discussions in question related to the views and impressions of the individual board members with respect to the contents of the aforesaid decision of the Commission and a discussion of how such decision would impact on the established procedures of the respondent board.

10. It is found that such discussions did not relate to "strategy and negotiations" within the meaning of §1-18a(e)(2), G.S.

11. It is therefore found that the public was wrongfully denied the right to attend such discussions in violation of §1-21, G.S.

12. It would not appear to be an appropriate form of relief to declare the aforesaid vote to appeal null and void, as nothing would preclude the respondent board from again voting to appeal. In this context, it is the essential claim of the complainant that a suit may not be lawfully instituted without prior authorization from the respondent board. Such a claim is a matter for the court to decide in the context of the appeal so taken.

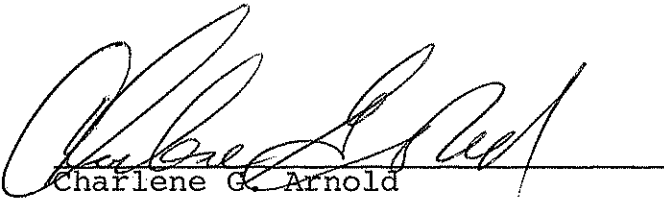
The following order by the Commission is hereby recommended on the basis of the record concerning the above captioned complaint:

1. Henceforth, the respondent board shall limit its discussion in executive session under authority of §1-18a(e)(2), G.S. to "strategy and negotiations with respect to pending claims and litigation ...." (emphasis added).

  
Commissioner Donald Friedman

as Hearing Officer

Approved by order of the Freedom of Information Commission on  
November 29, 1978.

  
Charlene G. Arnold  
Clerk of the Commission