

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Alan Kay and the New Haven
Advocate,

Complainant

Report of Hearing Officer

against

Docket #FIC78-241

City and Town of New Haven; and
Board of Aldermen of the City
and Town of New Haven,

March 27, 1979

Respondents

The above captioned matter was heard as a contested case on January 23, 1978, at which time the complainants and 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. Members of the respondent board met on November 17, 1978, with various members of other city and town of New Haven departments.
3. The aforesaid session was announced by letter to all members of the respondent board and to the regular mailing list which includes representatives of the media.
4. At no time was a quorum of the respondent board present at the aforesaid session.
5. During the aforesaid session the respondent board members voted to go into executive session pursuant to §§1-21 and 1-18a(e), G.S.
6. By letter filed with this Commission November 28, 1978, complainants allege that the respondent board met in executive session for an improper purpose in violation of §§1-21 and 1-18a(e), G.S.
7. Complainants further allege that the respondent board failed to give proper notice of the meeting as required by §1-21, G.S.
8. Complainants further allege that some of the non-members of the respondent board were present at the executive session illegally because they presented neither testimony nor opinion as required by §1-21g, G.S.

9. Complainants further allege a wilful violation of the Freedom of Information Act.

10. The respondent board denies that there was a meeting as defined in §1-18a(b), G.S. because a quorum of the multi-member public agency was not present.

11. The respondent board further denies that there was a wilful violation of the Freedom of Information Act.

12. §1-18a(b), G.S. defines a meeting of a multi-member public agency as "any convening or assembly of a quorum."

13. It is found that a quorum of the respondent board was not present at the session held November 17, 1978.

14. It is concluded that the aforesaid session was not a meeting as defined in §1-18a(b), G.S. and that the restrictions on executive sessions contained in §1-18a(e), G.S. are, therefore, not applicable.

15. It is to be noted, however, that the lack of a quorum was accidental as all of the members of the respondent board had been notified that a meeting would be held on November 17, 1978.

16. It is found that the letter referred to in paragraph 3 above did not constitute proper notice of the meeting as required by §1-21, G.S.

17. It is concluded that the respondent board failed to give proper notice of the meeting as required by §1-21, G.S.


18. It is concluded that this failure to give proper notice of the aforesaid meeting was not a wilful violation of the Freedom of Information Act.

19. Because the aforesaid session did not constitute a meeting as defined in §1-18a(b), G.S. it is not necessary to address the questions of whether there was a proper purpose for an executive session and whether attendance at the executive session was properly limited to members of the agency and those persons invited "to present testimony or opinion." §1-21g, 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 board shall henceforth comply with the requirements of §1-21, G.S.

2. The respondent board is requested to take careful notice of the requirements of §1-18a(e) and §1-21g, G.S.



Commissioner Donald Friedman
as Hearing Officer