

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Leo Ostar,

FINAL DECISION

Complainant

Docket #FIC83-208

against

April 11, 1984

Middlebury Water Pollution Control
Authority,

Respondent

The above captioned matter was heard as a contested case on January 23, 1984 at which time the complainant and the respondent appeared and presented testimony, exhibits and argument on the complaint.

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

1. The respondent is a public agency within the meaning of §1-18a(a), G.S.
2. By letter of complaint filed with the Commission on September 15, 1983 the complainant alleged that the respondent had failed to make available in a timely manner minutes of two meetings held in August, 1983.
3. By letter dated September 30, 1983 the complainant added to his complaint allegations that the respondent failed to make available an agenda for its September 19, 1983 regular meeting, and that the respondent failed to make available in a timely manner the votes and minutes of such meeting.
4. The complainant also alleged that prior to the September 19, 1983 meeting the chairman of the respondent conducted a telephone poll of a quorum of the respondent and that as a result of such poll the chairman developed terms and conditions which were then presented at the September 19, 1983 meeting.
5. At hearing, the complainant requested that the Commission impose fines against the members of the respondent pursuant to §1-21i(b), G.S.

6. It is found that minutes of the respondent's August 16, 1983, August 30, 1983 or September 19, 1983 meetings were not made available for inspection within seven days in violation of §1-21, G.S.

7. It is also found that the respondent failed to make available in a timely manner the record of votes taken at its September 19, 1983 meeting, in violation of §1-21, G.S.

8. The respondent's preparation of minutes involves the tape recording of each meeting, following which the clerk of the respondent replays the tape and summarizes the discussions which took place.

9. The respondent claims that due to the procedure it uses to prepare its minutes it is often unable to comply with the time limits of §1-21, G.S.

10. It is found, however, that the respondent's method of preparing its minutes does not relieve it of the responsibility of making available in a timely manner minutes which meet the minimal requirements of the Freedom of Information Act.

11. The respondent conceded that no agenda was made available for its September 19, 1984 regular meeting.

12. The respondent represented that it has, since the filing of the complainant's complaint, made agendas available for its regular meetings in compliance with §1-21, G.S.

13. The minutes of the respondent's September 19, 1983 meeting indicate that "[t]he Chairman . . . opened discussion on the proposed Route 188 motel. He stated he had consolidated the members [sic] sentiments of both the August 30, 1983 and subsequent phone conversations with each of the members."

14. Based upon his conversations with other members, the Chairman prepared a statement, read at the September 19, 1983 meeting, which indicated that permission would be granted to the developers of a proposed hotel to hook up to the Middlebury sewer system.

15. When asked if the decision of the respondent was unanimous, the members of the respondent indicated that it was.

16. It is found that the conversations between the chairman the other members of the respondent constituted a meeting within the meaning of §1-18a(b), G.S. to which the public was denied access, in violation of §1-21, G.S.

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

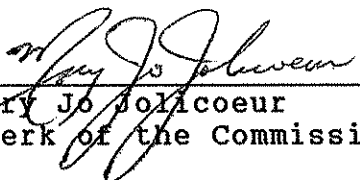
1. The Commission hereby declares null and void the action of the respondent at its September 19, 1983 regular meeting regarding sewer service for the proposed Route 188 motel.

2. The respondent shall continue to act in strict compliance with the requirements of §1-21, G.S. regarding the availability of agendas for its regular meetings.

3. The respondent shall henceforth act in strict compliance with the requirements of §1-21, G.S. regarding the availability of minutes and records of votes of public meetings.

4. The Commission hereby declines to impose fines against the members of the respondent as requested by the complainant.

Approved by order of the Freedom of Information Commission at its regular meeting of April 11, 1984.



Mary Jo Jolicoeur
Clerk of the Commission