

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Melvin Silverman,

FINAL DECISION

Complainant

Docket #FIC84-61

against

July 25, 1984

Wilton Planning and Zoning
Commission of the Town of
Wilton,

Respondent

The above captioned matter was heard as a contested case on May 8, 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. At a regular meeting held on February 27, 1984 the respondent acknowledged receipt of a letter from residents of Spectacle Lane voicing their concerns about a development instituted by the Spectacle Lane Holding Group. Two members of the respondent felt that research into the problems was necessary and that a legal opinion from an alternate counsel should be sought, since town counsel was the owner as trustee of property involved in or abutting the development.

3. At a March 5, 1984 regular meeting the respondent voted to ask the first selectman to appoint alternate counsel to write an opinion on the issues of the development. The respondent also voted to instruct the building department to decline to issue new building permits for construction on Spectacle Lane Holding Corp. land until the investigation was completed.

4. At a regular meeting held on March 26, 1984 the chairman of the respondent revealed that alternate counsel had advised the respondent that in his opinion a violation had occurred because the Spectacle Lane lots being developed had not been brought to the respondent for subdivision approval. Also on March 26, 1984 process was served in a lawsuit brought by the Spectacle Lane Corporation against the town of Wilton.

5. The respondent held a regular meeting on April 9, 1984, the agenda for which included "[u]pdate on Spectacle Lane - Alternate Counsel's Opinion."

6. During the April 9, 1984 regular meeting the respondent convened in executive session "on a matter of litigation."

7. At the April 9, 1984 meeting the respondent reviewed a letter from alternate counsel Lawrence P. Weisman advising them that he considered some of the Spectacle Lane lots to have been illegally created.

8. Also at the April 9, 1984 meeting the respondent voted to advise the zoning enforcement officer of the illegal creation of "the lots shown on W.L.R. Map #4086 thereby invalidating any Zoning Permits that may have been issued as prerequisites to the issuance of Building Permits and that the [R] recommends his office evaluate all active permits for construction on property now or formerly of Spectacle Lane Holding Corp. and determine whether or not orders to cease and desist construction should be issued." Furthermore, the zoning enforcement officer was advised to apprise the Building Official of his decision as it pertained to the issuance of Certificates of Occupancy for construction on the property in question.

9. By letter of complaint filed with the Commission on April 16, 1984 the complainant alleged that the April 9, 1984 executive session was not held for a proper purpose and that the votes regarding Spectacle Lane had been taken "without hearing, without notice and without an agended item."

10. At hearing, the complainant indicated that his complaint was not that an executive session was held, but that non-agency members were allowed to attend, in violation of §1-21g, G.S.

11. The complainant's claim with respect to §1-21g, G.S. not having been raised in his letter of complaint, the Commission declines to address it at this time.

12. Also at hearing, the complainant requested that the actions of the respondent on April 9, 1984 be declared null and void and that the Commission impose a civil penalty against the respondent.

13. It is found that the agenda item "Alternate Counsel's Opinion" with respect to Spectacle Lane did not give adequate notice to the public of the extent of the action which would be taken as a result, in violation of §1-21, G.S.

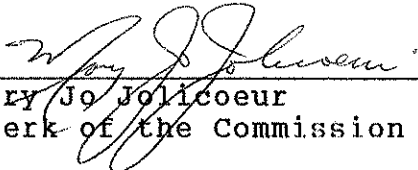
14. It is found, however, that the agenda item indicated that the respondent would, on April 9, 1984, be discussing the legality and/or legal ramification of the Spectacle Lane subdivision.

15. The Commission therefore declines to impose a civil penalty or issue an order declaring the respondent's April 9, 1984 action null and void.

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 act in strict compliance with the requirements of §1-21, G. S. regarding agendas of regular meetings of public agencies.

Approved by order of the Freedom of Information Commission at its regular meeting of July 25, 1984.



Mary Jo Jolicoeur
Clerk of the Commission