

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
John C. Donahue,

FINAL DECISION

Complainant

Docket #FIC84-106

against

Windsor Locks Fire Department
Grievance Board,

October 24, 1984

Respondent

The above captioned matter was heard as a contested case on August 14, 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. On May 17, 1984 the respondent held a gathering, closed to the public, to consider a grievance filed by a fire fighter against the complainant, also a fire fighter. The May 17, 1984 gathering was the first one held by the respondent.

3. By letter of complaint filed with the Commission on June 15, 1984 the complainant alleged that the May 17, 1984 executive session was improper because it had been held in spite of the complainant's request for an open hearing, because persons other than members of the respondent were allowed to attend and because minutes and votes of the meeting were not available until June 13, 1984.

4. The respondent claims that the Windsor Locks fire department is a volunteer department, not an agency of the town of Windsor Locks, and that therefore it is not a public agency within the meaning of §1-18a(a), G.S. and not subject to the requirements of the Freedom of Information Act.

5. It is found that the Windsor Locks fire department was organized pursuant to §7-301, G.S., which provides that the board of selectmen, town council or board of fire commissioners of any town may, by ordinance, enter into an agreement with a volunteer fire company for the protection of property within the town.

6. The Windsor Locks fire commission is a public agency within the meaning of §1-18a(a), G.S., the members of which are appointed by the first selectman of the town of Windsor Locks.

7. The fire commission deals directly with the town of Windsor Locks in matters such as obtaining necessary funds and purchasing supplies and equipment for the fire department.

8. The board of fire commissioners has final authority over the operation of the fire department, although the chief of the fire department administers the daily operation of the department and handles many personnel matters.

9. The town of Windsor Locks supplies all funding for the fire department, with the exception of monies expended for parties, and owns the building in which the fire department is housed. Monies supplied by the town to the fire department are designated either "Windsor Locks fire service" or "Windsor Locks social service."

10. Each fire fighter is issued checks by the fire department based upon the number of calls or drills attended. The funding for these checks comes from the "social service" branch of the fire department.

11. The number of calls or drills attended is recorded by a clerk who is paid out of funds supplied by the town of Windsor Locks.

12. The respondent claims that the fact that fire fighters are paid from "social service" funds indicates that they are not employees of the town.

13. It is found, however, that the designation of the funds is insignificant given the fact that the funds come directly from the town of Windsor Locks and are distributed based upon the quantity of services rendered to the town in the protection of property from fire.

14. It is found that the Windsor Locks fire department performs the governmental function of protecting property within the town of Windsor Locks from fire.

15. It is concluded that the Windsor Locks fire department is a public agency within the meaning of §1-18a(a), G.S.

16. The respondent consists of the chief, assistant chief, deputy chief and two captains of the Windsor Locks fire department.

17. The respondent was formed pursuant to a March 7, 1984 order of the fire chief to hear complaints regarding personnel matters.

18. Upon hearing a complaint the respondent issues a decision which is then sent to the chief of the fire department for his review. In the case in question the decision was referred to the fire commission due to the absence of the fire chief.

19. It is found that the respondent is a public agency within the meaning of §1-18a(a), G.S.

20. It is also found that the May 17, 1984 gathering was a meeting within the meaning of §1-18a(b), G.S.

21. It is concluded that the respondent violated §1-21, G.S. when it denied the public access to the May 17, 1984 meeting and failed to provide minutes of such meeting in a timely manner.

22. The Commission finds unpersuasive the respondent's claim that a finding by this Commission that it must comply with the Freedom of Information Act would necessitate the expenditure of funds for a secretary and that such an expenditure would be burdensome for the fire department.

23. The Commission also notes that there was no indication at hearing that the respondent's failure to comply with §1-21(a), G.S. was due to insufficient staffing.

24. It is found that the complainant was present at the May 17, 1984 meeting and was allowed to tape record the proceedings.

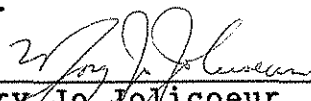
25. The complainant claims that the respondent refused to hear testimony from one or more witnesses brought by him to the May 17, 1984 meeting, denying such witnesses access to the meeting, and asks that the actions taken on May 17, 1984 therefore, be declared null and void.

26. The Commission, however, declines to declare null and void the actions of the respondent on May 17, 1984 on the ground that nothing in the Freedom of Information Act provides a right to address a public agency.

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

1. Henceforth the respondent shall act in strict compliance with the requirements of §1-21, G.S., regarding public access to meetings of public agencies.

Approved by order of the Freedom of Information Commission at its regular meeting of October 24, 1984.



Mary Jo Jolicoeur
Clerk of the Commission