FREEDOM OF INFORMATION COMMISSION OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by Gail O. Robinson, Richard B. Robinson and Dean R. Singewald,	Report of Hearing Officer
Complainants	Docket #FIC77-16
against	February 23, 1977
Town of Branford, Zoning Board of	•
Appeals of the Town of Branford and Planning and Zoning Commission)
of the Town of Branford,)
Respondents	
_)

The above captioned matter was heard as a contested case on February 15, 1977, at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint.

Warren Dougherty moved to be designated as a party pursuant to §27 of the Rules of Practice of this Commission. Such motion was denied. Warren Dougherty then moved for leave to intervene pursuant to §28 of the Rules of Practice of this Commission. Such motion was granted to the extent that the intervenor could participate by cross-examining witnesses called by the parties hereto, present oral argument and file written briefs or memoranda.

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

- 1. It is clear from the letter of complaint filed with this Commission and the notice of appeal attached thereto that Dean R. Singewald wrote to this Commission in a representative capacity, acting on behalf of Gail O. Robinson and Richard B. Robinson, who are the real parties in interest herein. Gail O. Robinson and Richard B. Robinson have been designated as parties on this Report of Hearing Officer.
- 2. The respondents are public agencies within the meaning of §1-18a(a), G.S.
- 3. At a meeting held on January 11, 1977, the respondent board of appeals met in executive session to deliberate over the record of certain applications for variances.
- 4. By letter of complaint filed with this Commission on January 25, 1977, the complainants alleged that the respondent board of appeals convened in executive session for a purpose not permitted under §1-18a(e), G.S.
- 5. It is found that the aforesaid deliberations of the respondent board of appeals are not one of the purposes for which the public may be excluded from a meeting under \$1-18a (e), G.S.

- 6. It is therefore concluded that the complainant, Richard B. Robinson, when he was specifically requested by the respondent board of appeals to leave the room prior to the aforesaid deliberations, was wrongfully denied his right to attend the meeting concerning the same.
- 7. In its sound discretion this Commission may declare null and void any or all actions taken at any meeting to which the complainant was denied access under §1-21i(b), G.S.
- The complainant, Mr. Richard B. Robinson, was one of approximately fifty people who appeared at a public hearing held on December 9, 1976 before the respondent board, at which time they stated their objections to the granting of a certain application for variance known as Castle Rock, which variance was discussed at the aforesaid executive session.
- At the same executive session and at the conclusion of the aforesaid discussion, the Castle Rock application for variance was granted unanimously.
- The complainant, Mr. Richard B. Robinson, lives adjacent to the property in question.
- A member of the press was allowed to remain in attendance in the aforesaid executive session, although the complainant, Richard B. Robinson, was specifically excluded therefrom.

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

- 1. All votes of the respondent board of appeals at its January 11, 1977 meeting concerning the Castle Rock application for variance are hereby declared null and void.
- 2. Henceforth, the respondent board of appeals shall meet in executive session only for those purposes stated in §1-18a (e), G.S.
- Although it was not raised in the complaint herein, it appears that a person who was not a member of the respondent board of appeals was allowed to remain in attendance at the aforesaid executive session. This Commission further advises that when the respondent board of appeals meets in executive session for a proper purpose within the meaning of \$1-18a(e), G.S., attendance in executive session must be limited in accordance with the requirements of §1-21g, G.S.

as Hearing Officer Approved by order of the Freedom of Information Commission on March 9, 1977.

is J. Tapogra, as Clerk of the Freedom of Information Commission