FREEDOM OF INFORMATION COMMISSION OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by)	Denout of Horning Officer
Chris Powell and the Journal Inquirer. Complainants	١	Report of Hearing Officer
Inquirer, Complainants	· 1	Docket #FIC77-216
against)	
-		December 28, 1977
Board of Education of the Town)	
of South Windsor, Respondent		
)	

The above captioned matter was heard as a contested case on December 7, 1977, at which time the complainants and the respondent board appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint.

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

- 1. The respondent board is a public agency as defined by §1-18a(a), G.S.
- 2. On October 25, 1977, a quorum of the respondent board held a meeting.
- 3. Two thirds of the members of the respondent board present on October 25, 1977 voted to go into executive session at some point in the course of its meeting.
- 4. The public was given two reasons for the respondent board's executive session vote, one of which was to discuss a report on a legal question.
- 5. The complainants' notice of appeal, filed with the Commission on November 17, 1977, contests the validity of only that part of the respondent board's executive session which concerns discussions relating to the report on a legal question and the procedure it invoked for discussing such a matter in executive session.
- 6. The respondent board is found to have used the procedure required under §1-21, G.S. for going into executive session.
- 7. The sole issue to be resolved by this Commission therefore is whether or not the stated purpose for the executive session is proper under §1-18a(e), G.S.
- 8. The respondent board admitted that the legal report in question was not related to either strategy or negotiations with respect to pending claims and litigation as defined by §1-18a(e) (2), G.S.

- 9. The respondent board contends however that it may vote to go into executive session for purpose of preserving the confidentiality of oral communications privileged by the attorney-client relationship.
- 10. It was admitted that no confidential communications privileged by the attorney-client relationship were made in the executive session discussion here in issue.
- 11. Such a matter, unrelated as it is to public records described in subsection (b) of section 1-19, is not one of the purposes defined under §1-18a(e) describing proper purposes for which the public may be excluded.
- 12. Further, a public agency is not permitted to exclude the public from its discussions on the contingency that something may arise in the course of a discussion that is otherwise a proper purpose under §1-18a(e), G.S. for conducting a meeting in executive session.
- 13. It is therefore found that the complainants were wrong-fully denied their right to attend the respondent board's discussion relating to the aforesaid legal report at an open meeting as required by §1-21, G.S.

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

- 1. Henceforth, the respondent board shall vote to hold an executive session, as defined in subsection (e) of section 1-18a, for only those purposes defined in said section.
- 2. Henceofth, the respondent board shall not exclude the public from its discussions on the contingency that something may arise in the course of a discussion that falls within the meaning of the purposes defined under §1-18a(e), G.S.
- 3. The respondent board is advised that only when matters relating to purposes defined under \$1-18a(e), G.S. actually arise does it become proper for a public agency to vote to hold an executive session. Concomitantly, once the discussion, in an executive session called for a proper purpose, leaves the pale of that purpose, \$1-21, G.S. requires that the executive session be adjourned and the meeting be once again opened to the public.

Chairman Helen M. Loy

Approved by order of the Freedom of Information Commission on

December 28, 1977.

Charlene G. Arnold Clerk of the Commission