FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Edward Kilduff,

Complainant

against

City and Town of New Britain; and
Board of Police Commissioners of the
City and Town of New Britain,

Respondents

Report of Hearing Officer

Docket #FIC79-187

December 19, 1979

The above captioned matter was heard as a contested case on November 1, 1979, at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint.

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

1. The respondents are public agencies as defined by §1-18a(a), G.S.

2. The respondent board conducted a special meeting on August 8, 1979.

3. By letter filed with the Commission on August 27, 1979, the complainant alleged that the respondent board denied various rights conferred under the Freedom of Information Act, relating to the respondent board's meeting of August 8, 1979.

4. At hearing, the complainant narrowed the issues raised in his complaint to the following:

a) whether the respondent board's notice to its August 8, 1979 special meeting was defective for failure to state the item of business to be transacted;

b) whether a certain motion, relating to the suspension of the complainant herein from the classified service of the City of New Britain, was improperly made in advance of the meeting in question;

c) whether the question of the complainant's suspension was predetermined at an earlier illegal meeting of the suspended board;

d) whether the complainant was entitled to a hearing at the special meeting in question.

5. Notice to the respondent's meeting was filed with the clerk of the respondent city twenty-four hours in advance thereof.

6. Notice contained the time and place of meeting and that the meeting concerned a "discussion of personnel matters".

7. The item of business to be transacted at the respondent board's meeting concerned the suspension of the complainant, without pay, from the classified service of the City of New Britain.

8. §1-21, G.S. requires that a notice to special meeting shall specify the business to be transacted.

9. It is found that the respondent board failed to specify in its notice of special meeting the business to be transacted as required by §1-21, G.S. In this regard the respondent board, which knew in advance that the question of the complainant's suspension was under consideration for board action on August 8, 1979, was obligated to specify such matter in its notice of special meeting.

10. The motion relating to the complainant's suspension was prepared in advance by a single member of the respondent board.

11. It is found that such action, limited as it was to a single board member, does not constitute a violation of the Freedom of Information Law.

12. The respondent board did not discuss or act upon the matter of such suspension at a meeting held without the benefit of public notice and an attending public, prior to its meeting of August 8, 1979.

13. It is found that the respondent board did not conduct an illegal meeting some time prior to its meeting of August 8, 1979, as alleged.

14. Lastly, it is found that nothing in the Freedom of Information Law requires the respondent board to give the complainant a hearing concerning his suspension, as claimed.

15. The complainant seeks to have this Commission declare its actions suspending the complainant from the classified service null and void.

16. It is inappropriate for the Commission to declare such action null and void, for reasons of the defective notice found in paragraphs 5-9 of the Findings above, because:

a) the complainant was given personal notice of the time, date and business to be transacted at the meeting in question;

b) the complainant and his attorney were present throughout such meeting.

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

1. Henceforth, the respondents shall specify each item of business to be transacted in its notice to special meetings in accordance with the requirements of §1-21, G.S.

Commissioner John Rogers,
as Hearing Officer

Approved by Order of the Freedom of Information Commission at its regular meeting of January 9, 1980.

Leslie Ann McGuire
Clerk of the Commission