

**FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT**

In the Matter of a Complaint by

FINAL DECISION

Margaret Tivnan,

Complainant

against

Docket #FIC 2005-570

Board of Selectmen, Town of North Haven,

Respondent

May 10, 2006

The above-captioned matter was heard as a contested case on February 15, 2006, at which time the complainant and the respondent appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. For purposes of hearing, the above-captioned matter was consolidated with contested case docket #FIC 2005-550, Michael Mele v. Board of Selectmen, Town of North Haven.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondent is a public agency within the meaning of §1-200(1), G.S.
2. By letter dated November 21, 2005 and filed on November 28, 2005, the complainant appealed to this Commission alleging that the respondent violated the Freedom of Information ("FOI") Act by holding a special meeting on October 24, 2005, without posting notice twenty-four hours prior to the time of such meeting.

3. Section 1-225(d), G.S., provides in relevant part:

Notice of each special meeting of every public agency ... shall be given not less than twenty-four hours prior to the time of such meeting by filing a notice of the time and place thereof ... in the office of the clerk of such subdivision for any public agency of a political subdivision of the state
...

4. Section 1-225(g), G.S., provides:

In determining the time within which or by when a notice, agenda, record of votes or minutes of a special meeting or an emergency special meeting are required to be filed under this section, Saturdays, Sundays, legal holidays and any day on which the office of the agency, the Secretary of the State or the clerk of the applicable political subdivision or the clerk of each municipal member of any multitown district or agency, as the case may be, is closed, shall be excluded.

5. It is found that the respondent held a special meeting on Monday, October 24, 2005, at 9:30 a.m., during which the First Selectman signed an agreement to terminate a prior "land swap" agreement with a certain company. It is found that the "land swap" had become too controversial for the owner of the company and he withdrew his proposal to swap some of his land with town land, on or about October 14, 2005. It is found that the special meeting lasted less than fifteen minutes and no other business was conducted.

6. It is found that notice for the October 24, 2005, meeting was filed on Friday, October 21, 2005 at 2:20 p.m.

7. The respondent concedes that the notice of the October 24, 2005 special meeting was not given twenty-four hours prior to the time of such meeting, as required by §1-225(d) and (g), G.S.

8. It is therefore concluded that the respondent violated the notice provisions of §1-225(d), G.S.

9. At the hearing on this matter, the complainant argued that the respondent's violation of the notice provisions of §1-225(d), G.S., was without reasonable grounds and that the actions taken at the October 24, 2005 special meeting should be declared null and void.

10. It is found that the provisions in §1-225(g), G.S., are clear regarding how to determine the time within which or by when notice of a special meeting should be filed.

11. It is also found that, on prior occasions, the respondent has demonstrated proficient knowledge and understanding of such provisions when notice of a special meeting was at issue.

12. Consequently, it is concluded that the respondent's violation of §1-225(d), G.S., was without reasonable grounds.

13. Notwithstanding the conclusion in paragraph 12, above, the Commission, in its discretion, declines to declare the actions taken at the respondent's October 24, 2005 meeting null and void because such would not provide any meaningful relief from the violation.

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 strictly comply with the notice provisions of §1-225(d), G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of May 10, 2006.

Petrea A. Jones
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

Margaret Tivnan
55 Whitney Ridge Terrace
North Haven, CT 06473

Board of Selectmen,
Town of North Haven
c/o Jeffrey M. Donofrio, Esq.
PO Box 219
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Petrea A. Jones
Acting Clerk of the Commission

