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Planning and Zoning Com'n of Town of Monroe v. Freedom of Information Com'n

Supreme Court of Connecticut - March 24, 2015 - A.3d - 2015 WL 1186306

After town zoning commission convened executive session to discuss enforcement procedures, permit holder filed a complaint with the Freedom of Information Commission (FOIC) claiming that the session violated the state's Freedom of Information Act. The Commission determined that the zoning commission had violated the Act's open meetings requirement. Zoning commission appealed. The Superior Court reversed. Commission and permit holder appealed and case was transferred.

The Supreme Court of Connecticut held that:

- Zoning commission was not justified in convening an executive session under pending claims or pending litigation exception to Act's open meetings requirement, and
- Prior Superior Court case regarding zoning commission's denial of permit extension was "finally adjudicated" within meaning of the pending litigation exception.

Town zoning commission was not justified in convening an executive session, under pending claims or pending litigation exception to Freedom of Information Act open meetings requirement, to discuss its zoning enforcement options with respect to permit holder's original permit. At the time, there was no pending litigation regarding the permit to which the zoning commission was a party, and there was no pending or prospective litigation regarding permit holder's alleged permit violations.

Prior Superior Court case regarding town zoning commission's denial of permit extension was "finally adjudicated" before the commission's executive session, within meaning of statutory exception to Freedom of Information Act open meetings requirement for meetings to discuss strategy and negotiations with respect to pending litigation that has not been finally adjudicated, and thus zoning commission was not justified under the exception in conducting executive session to discuss how to respond to the prior court decision. Executive session occurred approximately eight months after court's decision, and 20-day period during which the zoning commission had the right to appeal the court's decision already had expired.