

July 18, 2005

*Sent Via Facsimile*

Mr. David Paul Allen  
5231 Hohman Avenue, Suite 703  
Hammond, IN 46320

*Re: Formal Complaint 05-FC-135; Alleged Violation of the Access to Public Records Act by the Lake County Auditor*

Dear Mr. Allen:

This is in response to your formal complaint alleging that the Lake County Auditor (“Auditor”) violated the Access to Public Records Act (“APRA”) by failing to respond within twenty-four hours to your written request for tax records. I find that the Lake County Auditor failed to timely respond to your request.

#### BACKGROUND

You hand-delivered a written request for certain tax records concerning a particular property to the Auditor on July 6, 2005. As of the filing of your formal complaint with my office on July 11, 2005, you had not received any response. You requested priority status for your complaint because you allege that at least one of the public records requested is sought for the purpose of presenting it in a proceeding to be conducted by another public agency. *See* 62 IAC 1-1-3(3). Accordingly, this opinion is being issued within seven (7) days of the filing of your complaint.

I sent a copy of your complaint to the Auditor. On behalf of the Auditor, attorney James L. Wieser responded. I enclose a copy of his response letter for your reference. In his response, he explains that the week that your in-person request was delivered, the Auditor’s office was closed one day due to the holiday. The Auditor had inadvertently failed to send attorney Wieser a copy of the records request when he forwarded a copy of the Lake Circuit Court complaint you had filed at the same time as your record request. Although the Auditor believed that it had until Friday, July 8 to comply with your record request, the Auditor and his attorney were not working

on the request and the attorney did not become aware of the request until I sent the APRA complaint to the Auditor on July 12. Thereafter, the attorney and Auditor worked to identify and produce records. Last Friday, July 15, the Auditor supplied you with the records that you requested.

#### ANALYSIS

Any person may inspect and copy the public records of any public agency during the agency's regular business hours, except as provided in section 4 of the APRA. Ind. Code 5-14-3-3(a). An agency that receives a written request for records in person is required to respond in writing within twenty-four (24) hours of receiving the request. IC 5-14-3-9(a). The law requiring a response contemplates an acknowledgment that the request has been received, and some indication of how and when the public agency intends to comply. The requirement that a response be issued within 24 hours does not mean that the records must be produced within that time. In fact, no law requires that public records be produced by an agency in any specific time; rather, the issue is whether the agency has produced the records within a reasonable period of time.

Because you hand-delivered your request for records to the Auditor on July 6, the Auditor was required to respond, in writing, by the close of business on July 7, 2005. The Auditor responded for the first time with its production of the records on July 15, 2005, and this was a tardy response under the APRA. However, the records were *produced* within a reasonable time under the APRA. I urge the Auditor to consider that a fairly quick written response in the form of a letter issued within 24 hours would have better served him in this situation, yet I commend his efforts to get the records to you swiftly.

#### CONCLUSION

For the foregoing reasons, I find that the Lake County Auditor did not respond to your request for records in a timely manner under the Access to Public Records Act, but produced the records to you in a timely manner.

Sincerely,

Karen Davis  
Public Access Counselor

cc: Mr. James L. Wieser