



STATE OF INDIANA

MITCHELL E. DANIELS, JR., Governor

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September 19, 2005

Shondra Zaborowski
12128 N. CR 1250 E.
Seymour, IN 47274

Re: Formal Complaint 05-FC-173; Alleged Violation of the Access to Public Records Act by the Jackson County Plan Commission

Dear Ms. Zaborowski:

This is in response to your formal complaint alleging that Jackson County Plan Commission ("Commission") violated the Access to Public Records Act by charging an excessive copy fee.

BACKGROUND

In your complaint, filed with the Office of the Public Access Counselor on August 19, 2005, you stated that the Commission charged you \$1.00 per page for copies of public records. At the time you expressed concern that this was an abuse of copy fees. You were told to pay the \$25.00 anyway, which you did.

John F. Rothring responded to your formal complaint, on behalf of the Commission, by letter dated September 1, 2005. A copy of that letter is enclosed for your reference. Mr. Rothring acknowledged that the copy fee charged by the Commission was not appropriate and has arranged for you to be provided with a full refund.

ANALYSIS

Any person may inspect and copy the public records of any public agency during the agency's regular business hours, unless a record is excepted from disclosure under applicable law. IC 5-14-3-3(a). Under the Access to Public Records Act, a public agency may charge a fee to copy a record. IC 5-14-3-8. For local agencies, the copy fee for documents shall be set by the fiscal body for the unit of government and may not exceed the "actual cost" of the copy. "Actual cost" was clearly defined by the Indiana General Assembly in 1999 as the "cost of the paper and the per-page cost for use of the copying or facsimile equipment, and does not include labor costs or overhead costs." IC 5-14-3-8(d). Notwithstanding 8(d), the APRA states that a public agency shall collect any copying fee that is specified by statute or is ordered by a court. IC 5-14-3-8(f).

The Commission has acknowledged that it is not subject to any statute requiring it to impose a copy fee of \$1.00. The Commission also recognizes that it is not covered by an Equal Opportunity Employer

ordinance that provides for a copy fee. The Commission may only charge a fee that is established by the fiscal body of the agency; the fiscal body may not establish a fee in excess of the actual cost of copying. IC 5-14-3-8(d). The Commission violated the APRA when it charged you a copy fee that was in excess of the actual cost of making the copy and was not established by the fiscal body of the agency.

CONCLUSION

For the foregoing reasons, I find that the Jackson County Plan Commission violated the Access to Public Records Act when it charged an excessive copy fee that was not established pursuant to IC 5-14-3-8(d).

Sincerely,

Karen Davis
Public Access Counselor

cc: John F. Rothring