

January 19, 2007

Jeffrey Bringle
3465 Virginia Street
Columbus, IN 47203

Re: Formal Complaint 06-FC-219; Alleged Violation of the Access to Public Records Act by the Bartholomew County Commissioners

Dear Mr. Bringle:

This is in response to your formal complaint alleging that the Bartholomew County Commissioners (“Commissioners”) violated the Access to Public Records Act by not producing all the records you requested. I find that the Commissioners produced all the records that they maintained; consequently, the Commissioners have not violated the Access to Public Records Act.

BACKGROUND

Your complaint centers on the request for records that you hand-delivered to the Commissioners on November 17, 2006. You asked for six categories of records. Five of those categories relate to information about the Commissioners as well as Bartholomew County Drainage Board members, the Surveyor, and the head of the Hydrology Division. In your formal complaint, you claim that with respect to request #1, the information you received is incomplete and non-responsive. You state that the Surveyor referred you to the Commissioners for information about the appointed Drainage Board members, since the Commissioners appointed them.

In your request #1, you sought the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, and dates of first and last employment of each present member of the Commissioners, appointed Drainage Board members, and the county attorney. As best I can determine from your complaint and from the documentation you sent, the information that is missing relates to the Drainage Board members’ education and training background, as well as previous work experience. You clearly received some information concerning the Drainage Board, such as the members’ terms of office, business telephone number and address, and compensation.

I sent a copy of your complaint to the Commissioners. Responding on their behalf was Mr. J. Grant Tucker, who represents the Commissioners as well as the Drainage Board. Mr. Tucker asserts that all records that are maintained by the Commissioners have been disclosed to you; accordingly, the Commissioners did not violate the Access to Public Records Act. Mr. Tucker explained in a telephone conversation that the Commissioners simply do not collect

documentation of the Drainage Board's work experience or educational background. If such records were maintained, the Commissioners would certainly provide them.

ANALYSIS

Any person may inspect and copy the public records of any public agency, except as provided in section 4 of the Access to Public Records Act ("APRA"). Ind. Code 5-14-3-3(a). A "public record" is any material that is "created, received, retained, maintained, or filed by or with a public agency." IC 5-14-3-2(m). Nothing in the Access to Public Records Act requires an agency to create a list or document to satisfy a person's request for information. Rather, the APRA requires that the public agency's disclosable public records be available for inspection and copying.

The Commissioners have stated in their complaint response that there are no records concerning the Drainage Board members' work experience or education and training background. In addition, I note that the Commissioners said as much in their November 21, 2006 response to your request. Hence, the Commissioners did not violate the APRA in failing to disclose that information.

Because the Commissioners did not fail to provide their public records, I find that the Commissioners did not violate the Access to Public Records Act.

CONCLUSION

For the foregoing reasons, I find that the Bartholomew County Commissioners did not violate the Access to Public Records Act.

Sincerely,

Karen Davis
Public Access Counselor

cc: J. Grant Tucker