

March 17, 2006

Raymond Curtis  
P.O. Box 758  
Beverly Shores, IN 46301

*Re: Formal Complaint 06-FC-38; Alleged Violation of the Access to Public Records Act by the City of East Chicago*

Dear Mr. Curtis:

This is in response to your formal complaint alleging that the City of East Chicago (“City”) violated the Access to Public Records Act by failing to respond to your request for records. I find that the City violated the Access to Public Records Act.

#### BACKGROUND

You requested by letter dated January 30, 2006 the following records: 1) a copy of the administrative warrant pertaining to a search of the premises at 4607 Indianapolis Boulevard; 2) an accounting of the personal property at that residence; 3) a copy of all bills, itemizations, statements, and summary of Mr. Markovich’s bills to the City; and 4) a copy of all documentation as it pertains to the waiver of real estate taxes. You claim in your complaint that the City never responded to your request

I sent a copy of your complaint to the City via the Office of the Mayor, George Pabey. To date, I have not received a response.

#### 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. Ind. Code 5-14-3-3(a). A public agency is required to issue a response to a request for a record within certain timeframes, depending upon how the request was received by the agency. For requests received in person or by telephone, the agency is required to respond within 24 hours of receipt. IC 5-14-3-9(a). For

requests received via U.S. Mail or facsimile, the agency is required to respond within seven calendar days, or the request is deemed denied. IC 5-14-3-9(b). A public agency may deny a written request for a record if the denial is in writing and states the specific exemption or exemptions authorizing the public agency to withhold the record, and the name and title or position of the person responsible for the denial. IC 5-14-3-9(c).

You do not state how your request was sent to the agency. If it was hand-delivered, the January 30 request was deemed denied if the City failed to respond by January 31. If the request was mailed or faxed, the request was deemed denied if the City failed to respond within seven days of receipt. Assuming that the City received a mailed request within three days of January 30, the City should have issued a response by February 9, 2006. You allege that you had not received any response as of February 15, 2006 when you filed your complaint. The City has not responded to your complaint; in the absence of a response, I will assume for purposes of this opinion that your allegations are true.

You told my staff attorney that the City had filed a lawsuit against you. As I have stated before, the fact that a requester is in litigation with the public agency does not excuse the public agency from its duties under the Access to Public Records Act.

The City, in failing to respond to your request for records, violated the Access to Public Records Act. This denial is actionable under IC 5-14-3-9(e).

#### CONCLUSION

For the foregoing reasons, I find that the City of East Chicago violated the Access to Public Records Act.

Sincerely,

Karen Davis  
Public Access Counselor

cc: Honorable George Pabey