

June 16, 2006

Richard E. Volbrecht
9221 Parkway Drive
Highland, IN 46322

Re: Formal Complaint 06-FC-90; Alleged Violation of the Access to Public Records Act by the Highland Parks and Recreation Board

Dear Mr. Volbrecht:

This is in response to your formal complaint alleging that the Highland Parks and Recreation Board (“Board”) violated the Access to Public Records Act by failing to respond to your request within 24 hours. I find that the Board violated the Access to Public Records Act.

BACKGROUND

You alleged in your formal complaint that you hand-delivered a request for records to the Board at the Lincoln Center. You state that you gave the handwritten request to the receptionist at the Lincoln Center at 12:15 on May 21, 2006, a Sunday. The envelope was marked to the attention of the Board President Tom Arnold. You claim that the Board had not responded within 24 hours. You filed your complaint on May 25, 2006.

I sent a copy of your complaint to the Board. Board President Arnold responded to your complaint, a copy of which is attached for your reference. Mr. Arnold acknowledged that you dropped off your request on May 21, giving it to the part-time office clerk. Correspondence addressed to the Board is given to Alex Brown, the Superintendent of Parks and Recreation. Mr. Brown had surgery on May 22 and did not receive the correspondence until the afternoon of Wednesday, May 24. On May 25, Mr. Brown notified you that the information was available at the front desk for retrieval at any time. He stated that you retrieved the records on May 31.

From my research, it appears that the Lincoln Center is at 2450 Lincoln in Highland, and it is apparently the Board’s principal place of business.

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). If a public agency receives a request for a record in person, the public agency is required to respond within 24 hours or the record is deemed denied. IC 5-14-3-9(a). The public agency must respond to the request within 24 hours after any employee of the agency receives the request. Hence, if the person usually responsible for public records requests is absent, the public agency is still required to send out a responsive letter within 24 hours. However, when the public agency receives the request outside the normal business hours of the agency, the time for response does not begin until the public agency’s business hours next begin.

A response does not necessarily require that the records be identified and disclosed within 24 hours. Rather, a response can be just an acknowledgement of receipt of the request.

Therefore, although the time for response did not begin until Monday morning, May 22, the public agency should have issued a response within 24 hours, or by Tuesday, May 23. In essence, although *Mr. Brown* did not receive the request until his return to the office on May 24, the time for response is when it was received by the Board, not Mr. Brown. The Board should have telephoned you to let you know that your request would be fulfilled when Mr. Brown returned to the office.

The Board violated the Access to Public Records Act when it failed to respond within 24 hours to a hand-delivered request for records. I note that the Board located and copied the responsive records rather quickly, although this does not excuse the tardiness of the Board’s response.

CONCLUSION

For the foregoing reasons, I find that the Highland Parks and Recreation Board violated the Access to Public Records Act.

Sincerely,

Karen Davis
Public Access Counselor

cc: Thomas Arnold