

June 6, 2007

Dwane G. Ingalls  
1600 S. Paddock Road  
Greenwood, IN 46143

*Re: Formal Complaint 07-FC-123; Alleged Violation of the Access to Public Records Act by the Johnson County Commissioners*

Dear Mr. Ingalls:

This is in response to your formal complaint alleging that the Johnson County Commissioners (“Commissioners”) violated the Access to Public Records Act because you have received no response to your request for records. I find that the Commissioners failed to respond to your request.

#### BACKGROUND

You allege that you requested records from the Commissioners on April 17, but have received no response to date. You filed your formal complaint on May 7. I sent a copy of your complaint to the Commissioners. Mr. William Hammond, County Coordinator, responded by providing a copy of a letter to you, informing you that your items #3, 4, 5, 6, 7, 8, 9, and 10 are available, and that items #1 and #2 could not be located due to insufficient information. This copy is the only response I have received with regard to your allegation of non-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 (“APRA”). Ind. Code 5-14-3-3(a). If a public agency receives a request for a record in person or by telephone, the public agency is required to respond within 24 hours or the record is deemed denied. IC 5-14-3-9(a). If the public agency receives a request for a record via U.S. Mail or facsimile, the public agency is required to respond within seven calendar days, or the request is deemed denied. IC 5-14-3-9(b). A request for a record must identify the record with reasonable particularity. IC 5-14-3-3(a)(1).

The Commissioners have not averred that they responded to your request for the records. I assume, then, that the Commissioners failed to issue a response within seven days of receipt, in violation of the Access to Public Records Act. I also find that the Commissioners should have contacted you to clarify your requests #1 and #2, not only because you invited them to do so in your request, but because the Access to Public Records Act places the burden on a public agency to seek clarification for any ambiguous or unclear requests for records.

#### CONCLUSION

For the foregoing reasons, I find that the Johnson County Commissioners violated the Access to Public Records Act by failing to respond at all to your request for records and by failing to seek clarification of two of your requests.

Sincerely,

Karen Davis  
Public Access Counselor

cc: William L. Hammond