

June 28, 2007

Cleverly Lockhart
#895563
Wabash Valley Correctional Facility
Carlisle, IN 47838

Re: Formal Complaint 07-FC-146; Alleged Violation of the Access to Public Records Act by the Indiana Bureau of Motor Vehicles

Dear Mr. Lockhart:

This is in response to your formal complaint alleging that the Indiana Department of Motor Vehicles (BMV) violated the Access to Public Records Act by refusing to respond to your requests for records. I find that the BMV is required under the Access to Public Records Act to respond to your requests for records.

BACKGROUND

You sent the BMV two requests for records. In the first, dated April 21, 2007, you requested any documents that would stop you from being a dealer. In your second request, dated April 22, 2007 you requested the status of your own license. You allege that you have received no response to either request.

I sent a copy of your complaints to the BMV. To date, I have received no 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). A request must identify the record requested with reasonable particularity. IC 5-14-3-3(a)(1). 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).

The BMV has not offered any rebuttal to your allegations that you mailed two requests for records to the BMV. The BMV is required to respond to a request for records within seven days of receiving your requests, or the request is deemed denied. The BMV must respond even if the BMV does not understand your request, or even if the BMV has no responsive records. The BMV has 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 Indiana Bureau of Motor Vehicles failed to respond to your requests for records, in violation of the Access to Public Records Act. This denial is actionable under IC 5-14-3-9(e).

Sincerely,

Karen Davis
Public Access Counselor

cc: Ronald L. Stiver