

July 5, 2007

Mr. Martin Sellers  
97 South 800 East  
Montgomery, Indiana 47558

*Re: Formal Complaint 07-FC-148; Alleged Violation of the Access to Public Records Act by the Daviess County Highway Department*

Dear Mr. Sellers:

This is in response to your formal complaint alleging the Daviess County Highway Department (“Department”) violated the Access to Public Records Act (APRA) (Ind. Code 5-14-3) by failing to respond to your request for records. A copy of the Department’s response to your complaint is enclosed for your reference. The Department provides evidence it did respond to your request within seven days. I find that the Department did not violate APRA.

#### BACKGROUND

Your complaint alleges that on June 1, 2007 you requested documents from the Department related to “stone vendor tickets.” You filed the formal complaint with this office on June 4, 2007, indicating you had not received the requested documents.

In response to your complaint, the Department provided a letter including a chronology of events regarding this matter. The Department indicated your request was received by facsimile on May 29. On May 30 the Department provided you with some of the documents you requested. Regarding the remainder of the documents you requested, the Department sought counsel before producing those. On June 5, the Department fulfilled the remainder of your request, providing copies of the “stone tickets.”

#### ANALYSIS

Indiana Code 5-14-3-3(a) provides that any person may inspect and copy the public records of any public agency during the regular business hours of the agency, except as provided in section 4 of APRA. A “public record” means any writing, paper, report, study, map,

photograph, book, card, tape recording or other material that is created, received, retained, maintained or filed by or with a public agency. IC 5-14-3-2. A request for records may be oral or written. IC 5-14-3-3(a); 5-14-3-9(c). If the request is delivered by mail or facsimile, the agency must respond to the request within seven days of receipt. IC 5-14-3-9(b).

Your complaint alleges the Department did not respond to your request. The Department provided evidence it did on May 30 and June 5 respond to your request and did produce copies of the records you requested.

#### CONCLUSION

For the foregoing reasons, I find that the Daviess County Highway Department did not violate the Access to Public Records Act.

Best regards,

Heather Willis Neal  
Public Access Counselor

cc: Larry McLin, Highway Supervisor