

August 20, 2007

Steven Ochs
2793 North Meridian Road
Huntington, Indiana 46750

Re: Formal Complaint 07-FC-216; Alleged Violation of the Access to Public Records Act by the Huntington County Board of Commissioners

Dear Mr. Ochs:

This is in response to your formal complaint alleging the Huntington County Board of Commissioners (“Commissioners”) violated the Access to Public Records Act (“APRA”) (Ind. Code §5-14-3) by failing to respond to your request a copy of blueprints of your townhouse. I find that while the Commissioners’ response was untimely under the APRA, it did not otherwise violate the APRA.

BACKGROUND

You allege you sent via certified mail to the Commissioners a request for access to public records on July 5. You received a return receipt indicating the request was received by the Commissioners on July 10. You specifically requested all information that discusses or pertains to infrastructure needs of NuFuels, LLC or any other parties involved in biofuels development in Huntington County. You filed your complaint on July 20 indicating you had not received a response from the Commissioners.

The Commissioners, by County Attorney Robert Garrett, responded to your complaint on July 27. Mr. Garrett indicates in his response that the Huntington Circuit Court Clerk received a request on April 27 identical to the request you submitted to the Commissioners on July 5. That April request was responded to by the Commissioners on behalf of the Clerk on May 7. Upon receipt of your request on July 10, the Commissioners responded on July 18 with a letter indicating the response was identical to the response to your April 27 request. The Commissioners included with that response the same records included in the response to the April 27 request.

ANALYSIS

The public policy of the APRA states that "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." I.C. §5-14-3-1. The Commissioners are clearly a public agency for the purposes of the APRA. I.C. §5-14-3-2. Accordingly, any person has the right to inspect and copy the public records of the Commissioners during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. §5-14-3-3(a).

A request for records may be oral or written. I.C. §5-14-3-3(a); §5-14-3-9(c). If the request is delivered by mail or facsimile and the agency does not respond to the request within seven days of receipt, the request is deemed denied. I.C. §5-14-3-9(b).

Here, you have provided evidence the Commissioners received your request on July 10. The response from the Commissioners was sent on July 18, one day later than the seven days allowed by the APRA for response to a written request. While the response was sent one day later than it should have been, the response did contain the records you requested. I find no other violation of the APRA.

CONCLUSION

For the foregoing reasons, I find that while the Commissioners' response was untimely under the APRA, it did not otherwise violate the APRA.

Best regards,



Heather Willis Neal
Public Access Counselor

cc: Jerry Helvie, President, Huntington County Board of Commissioners
Robert Garrett, Huntington County Attorney