

December 5, 2007

Joseph Williams-Bey
PO Box 41
Michigan City, Indiana 46361

Re: Formal Complaint 07-FC-342; Alleged Violation of the Access to Public Records Act by the Elkhart County Clerk of the Circuit Court

Dear Mr. Williams-Bey:

This advisory opinion is in response to your formal complaint alleging the Elkhart County Clerk of the Circuit Court ("Clerk") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by denying you access to records. I have enclosed a copy of the Clerk's response to your complaint for your reference. It is my opinion the Clerk did not violate the APRA.

BACKGROUND

You allege that you submitted a request to the Clerk for copies of the "order book entries" for three cause numbers. You claim the "order book entries" are not the same as the "CCS," which is what the Clerk provided to you. You mailed this complaint on November 5, and I received it on November 7.

The Clerk responded to your complaint by letter dated November 8. The Clerk indicated that in response to your request for "order book entries," you were provided with the complete CCS for each cause number. The CCS contains all entries, including "order book entries," which are indicated with a "Y" designation.

ANALYSIS

The public policy of the APRA states, "(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. Any person has the right to inspect and copy the public records of a public agency 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).

The Clerk is 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 Clerk 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, facsimile, or electronic mail 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).

You requested copies of the “order book entries” for three cause numbers. It is my understanding the Clerk has provided you with the requested “order book entries” in addition to other information contained in the CCS. Since the Clerk provided the records you have requested, it is my opinion the Clerk fulfilled her duties under the APRA.

CONCLUSION

For the foregoing reasons, it is my opinion the Elkhart County Clerk of the Circuit Court did not violate the Access to Public Records Act.

Best regards,



Heather Willis Neal
Public Access Counselor

cc: Stephanie Burgess, Elkhart County Clerk of the Circuit Court