



STATE OF INDIANA

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January 18, 2012

Ms. Ethel Shelton
4644 Pierce Street
Gary, Indiana 46408

*Re: Formal Complaints 12-FC-04; Alleged Violation of the Open Door Law
by the Gary Plan Commission*

Dear Ms. Shelton:

This advisory opinion is in response to your formal complaint alleging the Gary Plan Commission ("Commission") violated the Open Door Law ("ODL"), Ind. Code § 5-14-1.5-1 *et seq.* Alva V. White, Chairperson, responded on behalf of the Commission. Her response is enclosed for your reference.

BACKGROUND

In your formal complaint you allege that the Commission failed to provide proper notice for its meeting held on January 4, 2012.

In response to your formal complaint, Ms. White acknowledged that the Commission failed to provide proper notice for the January 4, 2012 meeting. The Commission has been advised by the City's Legal Department that failing to provide notice for the meeting violated the ODL and any action taken at the meeting was invalid.

ANALYSIS

It is the intent of the ODL that the official action of public agencies be conducted and taken openly, unless otherwise expressly provided by statute, in order that the people may be fully informed. *See* I.C. § 5-14-1.5-1. Accordingly, except as provided in section 6.1 of the ODL, all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them. *See* I.C. § 5-14-1.5-3(a).

Public notice of the date, time, and place of any meeting, executive session, or any rescheduled or reconvened meeting of a public agency shall be given at least forty-eight hours (excluding Saturdays, Sundays, and legal holidays) prior to meeting. *See* I.C. § 5-14-1.5-5(a). In addition to providing notice to any news media who by January 1 of

the year have requested notice, the agency must post notice at the principal office of the agency or, if there is no office, at the building where the meeting will be held. *See* I.C. § 5-14-1.5-5(b). Notice has not been given in accordance with Section 5 of the ODL if a governing body of a public agency convenes a meeting at a time so unreasonably departing from the time stated in its public notice that the public is misled or substantially deprived of the opportunity to attend, observe, and record the meeting. *See* I.C. §5-14-1.5-5(h).

The Commission has acknowledged that it failed to provide proper notice for the January 4, 2012 meeting and that it has been advised by the City's Legal Department that action taken at the meeting was invalid. As the Commission has admitted the error, it is my opinion that it violated the ODL by failing to provide proper notice for the January 4, 2012 meeting. In the future, should the Commission have any questions or inquiries regarding the ODL, please do not hesitate to contact the Public Access Counselor's Office for assistance.

CONCLUSION

For the foregoing reasons, it is my opinion that the Commission violated the ODL.

Best regards,

A handwritten signature in black ink, appearing to read "J. Hoage". The signature is stylized with a large initial "J" and a cursive "Hoage".

Joseph B. Hoage
Public Access Counselor

cc: Alma V. White