



# STATE OF INDIANA

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May 5, 2016

Ms. Kelly Crone  
Post Office Box 10  
601 Dartmoor Road  
Kingsford Heights, Indiana 46346

*Re: Formal Complaint 16-FC-71; Alleged Violation of the Open Door Law by the Town of Kingsford Heights Town Council*

Dear Ms. Crone:

This advisory opinion is in response to your formal complaint(s) alleging the Town of Kingsford Heights Town Council ("Council") violated the Open Door Law ("ODL"), Ind. Code § 5-14-1.5-1 et. seq. The Council has responded to your complaint via Ms. Jennifer Koethe, Town Attorney. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on March 17, 2016.

## BACKGROUND

Your complaint dated March 17, 2016 alleges the Town of Kingsford Heights Town Council violated the Open Door Law by conducting a meeting without public notice.

On March 14, 2016, you noticed several members of the Council eating at a local café with other members of Town government. You contend the individuals were discussing resumes for potential town employees.

On April 11, 2016 the Board responded. The Board asserts no meeting took place and offers affidavits sworn to that fact by individuals you contend were at the "meeting". To the extent such a meeting did take place, the Town notes it would not be in violation of the ODL, because a majority of the Council was not present.

## ANALYSIS

It is the intent of the Open Door Law ("ODL") 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 Ind. Code § 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 Ind. Code § 5-14-1.5-3(a)*.

I will note I have addressed this very issue as it pertains to Kingsford Heights in *Opinion of the Public Access Counselor 16-FC-58*:

An exception to the Open Door Law is a chance or social gathering. *See Ind. Code § 5-14-1.5-2(c)(1)*. A gathering of a majority of a governing body at a local diner is not proof positive of a public meeting, however, the Town Council should be mindful of the **perception** it may create. Mere discussion or deliberation is enough to trigger the Open Door Law if public business was addressed. The Council members have provided affidavits this was not the case.

While two (2) complaints are not necessarily indicative of a problem, it does raise a red flag for me. I am aware Kingsford Heights is a small town and council members have been under fairly intense scrutiny for the past few months. For that reason among others, it makes it all the more important to be cautious not to step out of bounds when it comes to the Open Door Law. My recommendation is simply not to congregate socially for a while, so as not to arouse suspicion and to be mindful of public perception.

#### CONCLUSION

For the foregoing reasons, it is the Opinion of the Public Access Counselor the Town of Kingsford Heights Town Council has not violated the Open Door Law.

Regards,

A handwritten signature in black ink, appearing to read 'LH Britt', with a long, sweeping underline.

Luke H. Britt  
Public Access Counselor

Cc: Ms. Jennifer Koethe, Esq.