

May 24, 2006

LaRay Danner  
9651 West Little Drive  
Terre Haute, IN 47802

*Re: Formal Complaint 06-FC-76; Alleged Violation of the Access to Public Records Act by the Greenfield Bayou Levee and Ditch Conservancy District*

Dear Ms. Danner:

This is in response to your formal complaint alleging that the Greenfield Bayou Levee and Ditch Conservancy District ("District") violated the Access to Public Records Act ("APRA") by failing to respond to your request for records. I find that the District is required to respond to a request for records and make its records available for inspection and copying.

#### BACKGROUND

You filed your formal complaint on April 24, 2006, alleging that the District violated the Access to Public Records Act by failing to respond to your request for records dated April 4, 2006. You do not state how you made your request, or what specific records you requested.

I sent a copy of your complaint to a member of the District's Board, Ms. Bobbi Hunt-Kincaid. Ms. Kincaid responded by letter, a copy of which I have enclosed for your reference. Ms. Kincaid stated that the request you are referring to was made in person to the Board at its quarterly meeting of April 4, 2006. She stated that during the meeting, you requested to see the records of the District. The Board asked what records you wanted to see. In the past, you have asked to see records regarding formation of the District. Ms. Kincaid stated that these records are recorded at the Vigo County Courthouse.

She stated that the District kept financial records of the District at the public meeting. Any other records that you needed to inspect "would have to be done during a private meeting at our Conservancy District lawyer's office." You were invited to contact Mr. Hellman, the

attorney to set up a time to view the records. Ms. Kincaid stated that the Board is unaware of any attempt by you to contact Mr. Hellman's office.

Ms. Kincaid admitted that the District had no permanent building as of the date of her letter, May 8. The District used an office in Vigo County but were forced to relocate. The District is currently exploring other options for an office.

## ANALYSIS

Any person may inspect and copy the public records of any public agency, except as provided in section 4 of the APRA. Ind. Code 5-14-3-3(a). A public agency that receives a request for a record via hand-delivery is required to respond within twenty-four (24) hours, or the request is deemed denied. IC 5-14-3-9(a). There are no specific timeframes for producing documents under the APRA. This office has stated that records should be produced within a reasonable time under the facts and circumstances.

A request for a record must identify the record with reasonable particularity. IC 5-14-3-3(a)(1). A public agency may not deny or interfere with the exercise of the right stated in IC 5-14-3-3(a). IC 5-14-3-3(b). A public agency shall either provide the requested copies to the person making the request, or allow the person to make copies on the agency's equipment or on the person's own equipment. IC 5-14-3-3(b).

Under Indiana Code 14-33-5-19, a conservancy district board shall adopt a location in or near the district where the district will maintain an office. The Board shall report the location of the office and a change in location to the court establishing the district. IC 14-33-5-19(a). In addition, the Board shall keep all records and minutes available for inspection by any interested person of the district during the hours that the district office is open for business. IC 14-33-5-19(b)(3).

From the information I have gathered, I offer the following guidance. You are required to identify the records you are seeking with reasonable particularity. Although you are entitled to eventually request all the records maintained by the District, you must identify the records with some specificity. It is not sufficient for a person to request "all records maintained by the public agency." Nevertheless, the District is required to ask you to clarify your request. According to Ms. Kincaid, the Board attempted at the meeting to gain an understanding of what records you sought. The Board's effort was consistent with the Access to Records Public Act.

The Board responded to your request for records at the District meeting of April 4, 2006, by asking you to clarify your request and to suggest how you might inspect and copy records during the time in which the District is without a formal location. This met the requirements of IC 5-14-3-9(a). According to the District, you have not attempted to reach the District's attorney's office. If that is true, I suggest that you make a reasonable effort to arrange to view the District's records by telephoning Mr. Hellman. On the other hand, you have told me informally that the District's attorney was not available at all for an extended period of time. If this is true, then the District must make alternate arrangements to allow its records to be inspected and copied.

It is a requirement of IC 14-33-5-19 that the District maintain an office where its records may be located and inspected. More generally, making records available for inspection and copying is required of any public agency under IC 5-14-3-1. To the extent that the District's records were not available for inspection and copying, the District would have violated the Access to Public Records Act.

#### CONCLUSION

For the foregoing reasons, I find that the Greenfield Bayou Levee and Ditch Conservancy District is required to make its records available for inspection and copying at an established office location, or until an office can be established, by establishing alternate means for a member of the public to inspect and copy the records within a reasonable period of time.

Sincerely,

Karen Davis  
Public Access Counselor

cc: Bobbi Hunt-Kincaid