

August 26, 2004

Ms. Katherine J. Workman
2353 Columbia Street
Patriot, IN 47038

*Re: Advisory Opinion 04-FC-125; Alleged Violation of Open Door Law by the
Patriot Town Council*

Dear Ms. Workman:

This is in response to your formal complaint alleging that the Patriot Town Council ("Town Council") violated the Open Door Law ("ODL"), I.C. §5-14-1.5. Specifically, you allege that the Town Council failed to post notice for a meeting that occurred on July 19, 2004. The Town Council has responded to your complaint, a copy of which is enclosed for your reference.

It is my opinion that since you were not denied the right to attend a meeting conducted under the Open Door Law, you do not have grounds to file a formal complaint with this Office. You are, however, entitled to make an informal inquiry about the State's public access laws. The substance of your complaint, therefore, has been addressed in the enclosed informal written response from this Office.

BACKGROUND

You are a member of the Patriot Town Council. During its regularly scheduled meeting on July 20, 2004, you were provided with a document that indicated that the Town Council held a meeting on July 19, 2004. You then filed a complaint with this office alleging that the Town Council failed to provide notice for the July 19, 2004 meeting.

This Office received your complaint on July 27, 2004, and we forwarded a copy of your complaint to the Town Council. Mr. W. Gregory Coy, Attorney for the Town of Patriot, responded. Mr. Coy verified that the Town Council did hold a meeting on July 19, 2004, and that no notice was posted for this meeting.

In a telephone conversation with this Office, Mr. Coy verified that there are three members on the Town Council, and that of two of those members attended the brief

meeting on June 19, 2004. According to Mr. Coy, the purpose of this meeting was to talk to a contractor to set the terms of a preventative maintenance contract.

ANALYSIS

In 1999, the Indiana General Assembly enacted legislation creating the Office of the Public Access Counselor and a formal complaint process. *See generally, P.L. 70 and P.L. 191-1999.* The Public Access Counselor may receive and respond to informal inquiries and issue advisory opinions in response to formal complaints. I.C. §5-14-4-10(5) and (6); I.C. §5-14-5-9. An informal inquiry may be made by the public or public agencies by telephone, in writing, by facsimile, in person, or electronic mail. I.C. §5-14-4-10(5). The informal inquiry process, therefore, is available to any person who has questions or concerns about the state's public access laws.

In the formal complaint process, the grounds for filing a formal complaint and receiving a formal advisory opinion in response are limited to any person or public agency denied: (1) the right to inspect or copy records under the Access to Public Records Act; (2) the right to attend any public meeting of a public agency in violation of the ODL; or (3) any other right conferred by the Access to Public Records Act or the ODL or any other statute or rule governing access to public meetings or public records. *See, I.C. §5-14-5-6.*

In the present case, you were not denied the right to attend a public meeting of the Town Council, as you are a member of that Council. For this reason, you do not have grounds to file a formal complaint with this Office. You are, however, entitled to receive an informal response to your concerns and that response is enclosed¹. *See Opinion of the Public Access Counselor 00-FC-11.*

CONCLUSION

It is my opinion that you do not have grounds to file a formal complaint with this Office alleging violations of the Open Door Law because you were not denied the right to attend a public meeting of the Patriot Town Council. You are, however, entitled to and will receive an informal response to your concerns.

Sincerely,

Karen Davis
Public Access Counselor

cc: Mr. W. Gregory Coy; w/out enclosures

¹ Indiana Code § 5-14-4-10(5) governs informal inquiries. For those who are viewing this opinion electronically, [click here](#) to access the text of the informal written response.