

August 19, 2003

Ms. Renee Gatchell  
200 Independence  
Roseland, IN 46637

*Re: Advisory Opinion 03-FC-60; Alleged Violation of the Open Door Law by the Roseland Housing and Neighborhood Development Committee*

Dear Ms. Gatchell:

This is in response to your formal complaint, which was received on July 21, 2003. You have alleged that the Roseland Housing and Neighborhood Development Committee ("Committee") violated the Indiana Open Door Law ("ODL") by failing to post notice of a meeting held on Tuesday July 8, 2003. Mr. David R. Snyder, President of the Committee responded in writing to your complaint and a copy of his response is enclosed for your reference. After reviewing all of the information provided I am unable to determine whether notice of the July 8, 2003 meeting was properly posted.

#### BACKGROUND

According to your complaint, notice of a meeting of the Committee to be held on Tuesday July 8, 2003 was not posted at least forty-eight (48) hours in advance as is required under the ODL. You stated that the notice was not posted before you left for the day on July 3, 2003. However, when you arrived on Monday July 7, 2003 notice was posted. You then contacted Officer Belinda Rathert who in a written statement to this Office stated that on July 5, 2003 there was no notice posted of the Committee meeting. However, according to Officer Rathert notice was posted on the front door on Sunday July 6, 2003.

In response to your complaint, Mr. Snyder stated that the Committee did hold a meeting Tuesday July 8th. According to the documents Mr. Snyder provide notice was posted on July 3, 2003, forty-eight (48) hours in advance of the meeting.

#### ANALYSIS

The intent and purpose of the ODL is 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." Ind. Code § 5-14-1.5-1. The provisions of the ODL are to be "liberally construed with the view of carrying out its policy." Ind. Code § 5-14-1.5-1. The Committee is a governing body subject to the ODL. Ind. Code § 5-14-1.5-2(b)(2).

A meeting is defined as "a gathering of a majority of the governing body of a public agency for the purpose of taking official action upon public business." Ind. Code §5-14-1.5-2(c). Meetings of a governing body must be held openly, with the exception of executive sessions, including affording the public the right to attend, observe and record these meetings. Ind. Code §5-14-1.5-3(a). Further, if the ODL applies to a meeting, the Committee must have posted notice in accordance with Indiana Code section 5-14-1.5-5.

Under Indiana Code section 5-14-1.5-5, the Committee was obligated to post notice outside their principal office or meeting location at least forty-eight (48) hours, excluding Saturdays, Sundays, and legal holidays, before the time of the meeting. Ind. Code §5-14-1.5-5(b)(1). In addition, the Committee was required to provide notice to "all news media which deliver by January 1 an annual written request for such notices for the next succeeding calendar year to the governing body." Ind. Code §5-14-1.5-5(b)(2).

In your complaint, you stated that the meeting notice was not posted on July 3, 2003. Officer Rathert in her statement advised that no notice was posted on July 5, 2003. According to Mr. Snyder and several witnesses notice was posted on July 3, 2003. As a result of the contradictory statements concerning the notice it is impossible for me to determine whether notice was properly posted for the July 8, 2003 meeting.

## CONCLUSION

Due to the contradictory statements provided to this Office concerning the posting of the notice of the July 8, 2003 meeting I cannot make a determination as to whether notice was properly posted.

Sincerely,

Sandra K. Barger  
Acting Public Access Counselor

Cc: Mr. David Snyder, President  
Housing and Neighborhood Development Committee