

Sent Via Facsimile
Guy A. Tridgell
6901 W. 159th St.
Tinley Park, IL 60477

August 29, 2005

Re: Formal Complaint 05-FC-156; Alleged Violation of the Access to Public Records Act by the Gary/Chicago International Airport

Dear Mr. Tridgell:

This is in response to your formal complaint alleging that the Gary/Chicago International Airport ("Airport") violated the Access to Public Records Act ("APRA") by denying your request for access to public records.

BACKGROUND

On July 28, 2005 you filed a formal complaint with the Office of the Public Access Counselor. Your complaint was assigned formal complaint # 05-FC-156. You requested priority status. Your request for priority status was denied as you failed to allege any facts to invoke priority status pursuant to 62 IAC 1-1-3.

You state that you submitted requests for records to the Airport on both June 16, 2005 and July 12, 2005. You requested a copy of the most recent budget for the Airport and a document, memo or roster containing a list of names, positions and salaries for all employees of the Airport. When you did not receive a response to your June 16th request you inquired about the request and were told on July 12, 2005 that the request had been lost. You renewed your request that same day. On July 18, 2005 you received a phone call from the Airport administrator, Paul Karas. Mr. Karas verbally denied your request. He stated, as the reason for the denial, that he did not like the work of your employer. He invited you to sue the Airport for access to the records.

A formal complaint to this office must be filed within 30 days of the denial or the date upon which the denial is deemed to have occurred. If your June 16th request were mailed to the Airport then, assuming three days' mailing time to the Airport and seven days for the Airport to respond, the denial would have occurred on June 27, 2005. Your complaint is, therefore,

untimely regarding the June 16th request. Your complaint is timely regarding the July 12, 2005 request. In any case, the denial that forms the basis of your complaint, the July 18th phone call from Mr. Karas, was in response to the July 12, 2005 request. Also, I can issue an informal inquiry response regarding the July 12th request, which I incorporate into this advisory opinion.

My office forwarded a copy of your complaint to Mr. Karas on July 29, 2005. No response to the complaint has been received on behalf of the Airport.

ANALYSIS

Any person may inspect and copy the public records of any public agency during the agency's regular business hours, 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 in person or over the telephone must respond within 24 hours of the time the request is received. IC 5-14-3-9(a). If the request is received by mail, facsimile, or e-mail, the request must be responded to within seven calendar days. IC 5-14-3-9(b). A denial, if any, to a written request for records must be in writing and must include a statement of the specific exemption or exemptions authorizing the withholding of all or part of the public record, and the name and the title or position of the person responsible for the denial. IC 5-14-3-9(c).

Your July 12, 2005 request was made in writing; therefore, the Airport was required to respond to your request in writing. The Airport was also required to include a statement of the specific exemption or exemptions authorizing the withholding of the records you seek. The Airport denied your written request verbally and without citation to any authority authorizing it to withhold the requested records. For this reason, it is my opinion that the Airport's denial of your request was not a proper denial under the APRA and that this denial is actionable under IC 5-14-3-9(e).

In regards to your June 16, 2005 request, the Airport's failure to respond to the request within seven days of receipt of the request was a violation of the APRA. The Airport did not claim that it never received the request but, rather, stated that your request was lost. The Airport had the duty to respond within seven days; if it lost your request it had the duty to contact you and request that you forward another copy in order to allow it to respond.

CONCLUSION

For the foregoing reasons, I find that the Gary/Chicago International Airport violated the Access to Public Records Act when it responded to your written request with a verbal denial of the records you seek without explanation or citation to any authority authorizing the withholding of the requested records. Additionally, the Gary/Chicago International Airport violated the Access to Public Records Act when it failed to respond to your June 16, 2005 request for records.

Sincerely,

Karen Davis
Public Access Counselor

cc: Paul Karas
Darnail Lyles