



STATE OF INDIANA

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December 22, 2008

Candace Alderson
478 West County Road 400 South
New Castle, Indiana 47632

*Re: Formal Complaint 09-FC-8; Alleged Violation of the Open Door Law by
the Henry County Technical Review Committee*

Dear Ms. Alderson:

This advisory opinion is in response to your formal complaint alleging the Henry County Technical Review Committee ("Committee") violated the Open Door Law ("ODL") (Ind. Code 5-14-1.5) by failing to provide notice for a meeting. A copy of the Committee's response to the complaint is enclosed for your reference.

You filed a complaint on December 15, 2008, alleging the Committee violated the ODL by failing to provide sufficient notice for a November 13 meeting at which the Committee took official action. You allege the Committee received information for the purpose of advising the Plan Commission on the technical merits of the application. You further allege the Committee is made up, either exclusively or in part, of members and/or officers chosen directly by the Plan Commission President.

You requested priority status for the complaint, alleging you intend to file an action in circuit court under I.C. § 5-14-1.5-7 to declare void a policy, decision or final action based upon a violation of I.C. 5-14-1.5. Pursuant to 62 IAC 1-1-3, priority status has been granted.

The Committee responded to the complaint by letter from attorney James Millikan. Mr. Millikan provides additional information regarding the Committee. Further, Mr. Millikan indicates that James Price, who submitted your complaint, is engaged in litigation currently pending in Henry Circuit Court. Mr. Millikan indicates that while the Committee has not been named as a party, Mr. Price has made the same allegations of Open Door Law violations by the Committee.

I decline to issue an advisory opinion on the substantive issue presented. I.C. § 5-14-4-10 precludes me from issuing an advisory opinion concerning a specific matter with respect to which a lawsuit has been filed under I.C. 5-14-1.5. *See Opinion of the Public Access Counselor 08-FC-192* for a discussion of "specific matter." Based on the

information provided, it is my opinion the subject of the complaint is a specific matter with respect to which a lawsuit has been filed under I.C. 5-14-1.5. As such, I cannot issue an advisory opinion.

Best regards,



Heather Willis Neal
Public Access Counselor

Cc: James A. Price, Pritzke & Davis, LLP
James E. Millikan, Millikan Law Office, P.C.