



STATE OF INDIANA

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June 25, 2009

Thomas Callahan
9028 West Road 225 South
Medora, Indiana 47260

*Re: Formal Complaint 09-FC-140; Alleged Violation of the Open Door Law
by the Jackson County Board of Commissioners*

Dear Mr. Callahan:

This advisory opinion is in response to your formal complaint alleging the Jackson County Board of Commissioners ("Board") violated the Open Door Law ("ODL") (Ind. Code 5-14-1.5). It is my opinion the Board did not violate the ODL.

BACKGROUND

Your complaint relates to a letter dated May 15, 2009 sent to you from Susan Bevers. Ms. Bevers sent the letter on behalf of Jackson County. In the letter is an indication the County will not pay an invoice you submitted to the sheriff on August 26, 2008. You contend that only the Board has the authority to make such a statement and that you have attended the meetings of the Board and know the Board has not discussed the matter. You filed the present complaint on June 8, 2009 (postmarked June 2).

My office sent a copy of your complaint to the Board and invited the Board to respond to the complaint. To date my office has not received a response.

ANALYSIS

It is the intent of the ODL 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. I.C. § 5-14-1.5-1. Except as provided in section 6.1 of the Open Door Law, all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them. I.C. § 5-14-1.5-3(a).

A "meeting," for the purposes of the ODL, is a "gathering of a majority of the governing body of a public agency for the purpose of taking official action upon public

business.” I.C. § 5-14-1.5-2(c). The Board of Commissioners is a governing body of a public agency. I.C. § 5-14-1.5-2(a) and (b).

You complain that Ms. Bevers does not have the authority to make the decision to deny your claim. You further contend that the Board did not discuss the issue at an open meeting and that if the Board knew about the denial of the claim, that knowledge must have been gained at a meeting which violated the serial meeting law.

Regarding your first claim, nothing in the ODL addresses which officials or employees have the authority to take which official actions. While the powers and duties of officials are listed in other areas of the Indiana Code, the public access laws do not address the powers and duties of the Board. Instead, the ODL is triggered when a meeting (*See* I.C. § 5-14-1.5-2(c), *defining “meeting”*) takes place. As such, the Board did not violate the ODL by allowing Ms. Bevers to send you the May 15 letter or to make the decisions related to the issue addressed in the letter.

Your second claim is that if the Board members were aware of the decision to deny your claim, they must have come by the information in a meeting which violates the serial meeting law, I.C. § 5-14-1.5-3.1. In my opinion, you have not submitted sufficient evidence to support a claim of a violation of the serial meeting law.

CONCLUSION

For the foregoing reasons, it is my opinion the Board did not violate the Open Door Law.

Best regards,



Heather Willis Neal
Public Access Counselor

Cc: Monte Strieger, Jackson County Board of Commissioners