

January 22, 2008

Arjay Neville
PO Box 111
Prairieton, Indiana 47802

Re: Your informal inquiry regarding the Greenfield Bayou Levee and Ditch Conservancy District

Dear Mr. Neville:

This is in response to your informal inquiry dated August 6, 2006. I apologize for the delay in the response. Upon taking office July 1, 2007, I found a backlog of informal inquiries. I am currently endeavoring to address the backlog and issue opinions in response to the inquiries, pursuant to I.C. §5-14-4-10(5).

BACKGROUND

You allege that on July 11, 2006 you requested records from the Greenfield Bayou Levee and Ditch Conservancy District ("District"). You allege that Allan Hodges, whom I presume is an employee or official associated with the District, indicated the District records were being kept at his residence and the request would not be honored until his wife was finished making copies. You allege this is a denial of the Access to Public Records Act ("APRA")(Ind. Code 5-14-3).

My office wrote to Mr. Hodges on December 10, 2007 asking him to respond to the complaint, but we did not receive a response.

ANALYSIS

The public policy of the APRA states, "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." I.C. §5-14-3-1. Any person has the right to inspect and copy the public records of a public agency during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. §5-14-3-3(a).

The District is created under Ind. Code 14-33. Pursuant to state statute, the Board of Directors of the District must do the following:

- (1) Arrange for office space.
 - (2) Keep a record of all transactions and minutes of all meetings in the office.
 - (3) Keep all records and minutes available for inspection by any interested person of the district during the hours that the district office is open for business.
- I.C. §14-33-5-19.

Pursuant to the foregoing statute, the District Board is required to keep records related to meetings and to provide access to such upon request. Under the APRA, the District would be able to withhold disclosure of the records only pursuant to an exception to disclosure provided in I.C. §5-14-3-4. Absent such an exception, the District would be required to provide you access to the records upon request.

As such, it is my opinion the District has violated the APRA.

Best regards,



Heather Willis Neal
Public Access Counselor

Cc: Allen Hodges, Greenfield Bayou Levee and Ditch Conservancy District