

August 14, 2006

James Busch
3166 Ripley Street
Lake Station, IN 46405

Re: Formal Complaint 06-FC-121; Alleged Violation of the Access to Public Records Act by the Lake Station Parks Department

Dear Mr. Busch:

This is in response to your formal complaint alleging that the Lake Station Parks Department (“Department”) violated the Access to Public Records Act by failing to respond to your request for records of the Department. I find that if the Department failed to respond within 24 hours of your request, the Department violated the Access to Public Records Act.

BACKGROUND

You allege that your request for minutes of all meetings from January 2005 through December 2005 and all records relating to the \$1.5 million bond was ignored. You alleged that you gave the Department Secretary the written request on June 16.

I sent a copy of your complaint to the Department. Mr. Dewey R. Lemley, Park Superintendent, responded. I have enclosed a copy of his response for your reference. Mr. Lemley admitted that the Department received your request on June 16, and since June 17, your request “has been sitting in my office in a folder with his name on it.” Also, the bond issue information has to be obtained at the City Clerk’s office, not at the Park Office. This was a City bond issue, and the Department does not have this information.

ANALYSIS

Any person may inspect and copy the public records of any public agency, except as provided in section 4 of the Access to Public Records Act (“APRA”). Ind. Code 5-14-3-3(a). If

a public agency receives a request for a record in person, the public agency is required to respond within 24 hours or the record is deemed denied. IC 5-14-3-9(a).

The Department has not stated that it ever wrote you or called you to tell you that your records could be picked up in the Department's offices. Although the Department appears to have compiled and copied the records expediently, unless the Department contacted you about your request, it violated the Access to Public Records Act by not responding within 24 hours of your hand-delivered request. The Department also should have sent you a response within 24 hours to inform you that it did not have responsive records regarding the bond issue. Although it does not change my opinion that the Department violated the Access to Public Records Act if it failed to issue any response, the records are available in the Department's offices.

CONCLUSION

For the foregoing reasons, I find that if the Lake Station Parks Department did not respond to your request for records within 24 hours, the Department violated the Access to Public Records Act.

Sincerely,

Karen Davis
Public Access Counselor

cc: Dewey R. Lemley