



STATE OF INDIANA

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February 7, 2011

Ms. Janet L. Showalter
11595 W. 400 S.
Millersburg, IN 46543

Re: Formal Complaint 11-FC-17; Alleged Violation of the Open Door Law by the Goshen Public Library

Dear Ms. Showalter:

This is in response to your formal complaint alleging the Goshen Public Library ("Library") violated the Open Door Law¹ ("ODL"), Ind. Code § 5-14-1.5-1 *et seq.* The Council's response to your complaint is enclosed for your reference.

BACKGROUND

In your complaint, you allege² that the Library failed to post notices for committee meetings that occurred on Friday, December 10, 2010 at 4:00 p.m. You claim that you checked for notices on Wednesday and Thursday prior to those meetings, but did not see any posted.

I note that some of the allegations in your complaint are untimely. Formal complaints alleging violations of the ODL must be filed within 30 days of the date the meeting occurred or the date you discovered that a secret meeting occurred, whichever is later. I.C. § 5-14-5-7. You allege that the Library failed to post an agenda for its November 15, 2010, meeting, but your complaint was not filed until January 4, 2011. Consequently, that portion of your complaint is untimely and will not be addressed in this opinion.

In response to your allegations regarding the December 10th meetings, John William Davis, Jr., in his response on behalf of the Library, states that the Library

¹ In your complaint, you also raise concerns that the Library's responses to several public records requests have been "inadequate." Because you also state, however, that you are not alleging a violation of the APRA at this time, I will not address these concerns in this opinion. Please note that, in its response to this complaint, the Library states that it has now provided you with all records responsive to those requests. I trust this satisfies your concerns.

director recalls posting copies of the agenda for the December 10th meetings in the Library's lobby at least 48 hours in advance of those meetings. Further, the director claims that the library sent notices to requesting news media 48 hours in advance via facsimile, and that a reporter for the *Elkhart Truth* attended the meetings and wrote an article about them that was published on December 11, 2010.

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. Accordingly, except as provided in section 6.1 of the ODL, 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). The Library is a governing body for the purposes of the ODL. I.C. § 5-14-1.5-2.

The ODL requires that public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting, shall be given at least forty-eight hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. I.C. § 5-14-1.5-5(a). Here, the Library claims that it posted notice of the meetings held on December 10, 2010, 48 hours in advance in accordance with the ODL. I recognize, however, that you do not believe the notices were posted. The public access counselor is not a finder of fact, so I do not express an opinion regarding the factual allegations before me. Suffice it to say that if the Library sent notices of the December 10th committee meetings to news media who requested such notices, and also posted notices of the meetings at least 48 hours in advance at the Library, the Library did not violate the ODL.

CONCLUSION

For the foregoing reasons, it is my opinion that the Library did not violate the ODL if notices of the December 10, 2010, meetings were posted and sent to all requesting new media at least 48 hours in advance of the meetings.

Best regards,



Andrew J. Kossack
Public Access Counselor

cc: John William Davis, Jr.