



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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March 27, 2015

Mr. Tom J. Terry
3804 W. Allen Ct.
Muncie, IN 47304

Re: Formal Complaint 15-FC-68; Alleged Violation of the Access to Public Records Act and the Open Door Law by the Randolph County Assessor and the Randolph County PTABOA, Beverly Fields

Dear Mr. Terry,

This advisory opinion is in response to your formal complaint(s) alleging the Randolph County Assessor ("Assessor") and the Randolph County Property Tax Board of Appeals ("PTABOA") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. Seq* and the Open Door Law ("ODL"), Ind. Code § 5-14-1.5-1 *et. seq*. The PTABOA has responded to your complaint(s) via counsel, Mr. Meeks Cockerill, Esq. His response is enclosed. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint(s) received by the Office of the Public Access Counselor on February 24, 2015.

BACKGROUND

Your complaint dated February 24, 2015 alleges the Randolph County Assessor and Property Tax Board of Appeals violated the Access to Public Records Act by failing to provide requested information. You also allege a violation of the Open Door Law by the same, for refusal of access to a PTABOA meeting.

On or about February 24, 2015, you submitted a public records request to the PTABOA. You requested the minutes relating to PTABOA deliberations on a specific appeal and for a phone call within 24 hours should they be available for retrieval. After 24 hours, you did not receive a response.

You also allege you were not notified of a PTABOA meeting concerning your appeals. You contend this was not discussed during the February 12, 2015 PTABOA meeting. You claim the Deputy Assessor informed you a "secret meeting of the PTABOA board" was held to discuss your appeal.



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On March 11, 2015, Counsel for the County responded to your formal complaint. Counsel raises an issue with your APRA claim. Your request was made on February 23, 2015 to the Deputy Assessor. That day, the Assessor called to confirm the public records requested. Counsel contends the records were mailed to you.

With regard to your ODL claim, both parties acknowledge you were present at the February 1, 2015 meeting, where your appeal was taken under advisement to determine if you could appeal. Counsel acknowledges a February 19, 2015 meeting did occur and the meeting was not properly noticed. Counsel contends it is the position of the PTABOA the "action of the February 19, 2015, meeting should be rescinded" and your appeal is still under advisement.

ANALYSIS

Here, your complaint appears to be that the Assessor's Office did not respond to you, despite you requesting he do so. The purpose the phone call would have been so you could know to pick up the requested records. You are not alleging a failure to acknowledge your request, but are instead alleging a failure to adhere to an additional request you made to the Office.

In this situation, the Assessor contacted you to confirm your request within 24 hours meeting the deadline for an in-person request. You make no complaint against the Assessor, but apparently acknowledge this communication, having listed her as the agent responsible for your denial.

Your complaint is that you were not contacted of the time you could pick up your records. While it appears the Assessor's Office did fail to contact you, I will note that a courtesy call of this kind is not contemplated by the APRA and your records were mailed to you. Therefore, a phone call was unnecessary. This does not appear to be an APRA violation, because the records you requested were sent to you within a reasonable time. If the office did promise a call, it was voluntarily assuming a duty in excess of APRA. Therefore, I decline to find an APRA violation.

With regards to your ODL violation, counsel does admit that an improperly noticed meeting has occurred. Additionally, counsel contends it is the position of the PTABOA the "action of the February 19, 2015, meeting should be rescinded" and that your appeal is still under advisement. Therefore, while an ODL violation has occurred, the responsible party admits fault and appears to have made corrective action.



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CONCLUSION

For the foregoing reasons, it is the Opinion of the Public Access Counselor the Randolph County Assessor and PTABOA has not violated the Access to Public Records Act, but has violated the Open Door Law, albeit they have also taken remedial measures to mitigate any prejudice to you.

Regards,

A handwritten signature in black ink, appearing to read "LH Britt", written in a cursive style.

Luke H. Britt
Public Access Counselor

Cc: Mr. Meeks Cockerill, Esq.