

November 2, 2006

Richard E. Volbrecht
9221 Parkway Drive
Highland, IN 46322

Re: Formal Complaint 06-FC-169; Alleged Violation of the Access to Public Records Act by the Hammond Sanitary Board

Dear Mr. Volbrecht:

This is in response to your formal complaint alleging that the Hammond Sanitary Board (“Board”) violated the Access to Public Records Act by failing to respond to your hand-delivered request for records within twenty-four hours. I find that the Board violated the Access to Public Records Act because it did not issue a response within 24 hours, as required by the Access to Public Records Act.

BACKGROUND

You allege that you hand-delivered three document requests to the receptionist for the Board at 3:45 p.m. on Friday, September 22, 2006. You have not received a response as of the date of the complaint, October 3, 2006.

I sent a copy of your complaint to the Board on October 3. The Board’s attorney, Joseph P. Allegretti, sent me a carbon copy of a letter to you. The date of the letter was October 4, 2006. The letter states that the Board has granted your request for documents, except that for the third request for the annual cost that taxpayers are paying for healthcare benefits, no responsive document exists in the public records of the Board.

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). A public agency is not required to compile or create a record to satisfy a person's request for information. Rather, the APRA requires that a public agency make available its current public records.

The Board has not submitted any rebuttal to your allegation that the Board had not responded to your request within 24 hours. Instead, the Board submitted a carbon copy of the responsive letter to you granting your request to the extent that the Board maintained the records. Although the Board's response is, on its face, a proper response to a request for records, it is untimely. A timely response should have occurred by the next business day, or Monday, September 25, 2006. Hence, although the Board has now determined it will comply with your request, that does not alter my opinion that the Board did not timely respond to your request for records.

CONCLUSION

For the foregoing reasons, I find that the Hammond Sanitary Board violated the Access to Public Records Act when it failed to timely respond to your hand-delivered request for records.

Sincerely,

Karen Davis
Public Access Counselor

cc: Joseph P. Allegretti