

January 9, 2007

Mr. Kenneth Roe
3068 NW Lakeshore Drive
Macy, IN 46951

Re: Formal Complaint 06-FC-213; Alleged Violation of the Access to Public Records Act by the Nyona South Mud Lake Conservancy District

Dear Mr. Roe:

This is in response to your formal complaint alleging that Nyona South Mud Lake Conservancy District (“District”) violated the Access to Public Records Act by failing to provide records within the prescribed timeframe. I find that the District is not required to produce records within the time required for the agency’s response; rather, the District is required to produce records within a reasonable time.

BACKGROUND

You complain that you hand-delivered a request for records to the District at the public meeting on December 4, 2006. Mr. Ron Roe, the Chairman of the District Board told you that you could not have the records that night because there was no copy machine available. You believe that he should have to produce records by December 15. You filed your complaint on December 12.

I sent a copy of your complaint to Mr. Roe. He provided a response, a copy of which is attached. He stated that he is unsure what December 15 deadline you are referring to. The District is aware that it must produce records within a reasonable period of time. The records were in fact produced on December 13, and you were notified on that date that you could pick them up.

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). A public agency that receives a request for the records in person is required to respond within 24 hours or the request is deemed denied. IC 5-14-3-9(a). A response contemplates that the agency will acknowledge receipt of the request and state when or how the agency intends to comply. There are no specific timeframes set out in the APRA for when a public agency is required to produce records. This office has stated that the records should be produced within a reasonable time.

In your complaint, you assert that the records should have been produced by December 15. I assume for purposes of this Opinion that you are leaving time for mailing and adding seven days following December 4, the date you requested the records. Since Mr. Roe indicated to you that he would provide the records but at a later time because no copy machine was then available, he responded timely to your request. I have no information from which to form an opinion that the December 12 production date was unreasonable under the circumstances. At the time of this writing, you have received the records, according to Mr. Roe.

CONCLUSION

For the foregoing reasons, I find that the Nyona South Mud Lake Conservancy District did not violate the Access to Public Records Act.

Sincerely,

Karen Davis
Public Access Counselor

cc: Ronald Roe