

January 29, 2007

Mr. Michael Stephens
P.O. Box 781
Pooler, GA 31322

Re: Formal Complaint 06-FC-224; Alleged Violation of the Access to Public Records Act by the Indiana Secretary of State

Dear Mr. Stephens:

This is in response to your formal complaint alleging that the Indiana Secretary of State violated the Access to Public Records Act by failing to respond to your request for records. I find that the Secretary of State had not received your request, and therefore did not deny your request in violation of the Access to Public Records Act.

BACKGROUND

You complained that the Secretary of State did not respond to your request within seven days of receiving a record request that you mailed to the Secretary of State on November 19, 2006. The address appearing on the inside address of your letter was 201 State House, Indianapolis, Indiana, 46204.

The Secretary of State responded to your complaint. I enclose a copy of the response submitted by Jerold A. Bonnet, General Counsel. He stated that after reviewing the files of the Secretary of State, there is no sign of your original request. The Secretary of State learned of your request for the first time through your formal complaint. Having learned of your request, the Secretary of State has issued a response on January 2, 2007.

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). The Secretary of State is a public agency under the APRA. IC 5-14-3-2(l)(1). If a public agency

receives a request for a record by U.S. Mail, the public agency is required to respond within seven (7) days, or the request is deemed denied. IC 5-14-3-9(b).

A public agency must receive a request for a record to trigger the requirement for a response within seven days. The Secretary of State explained that it had not received your request; perhaps it was lost in the mail. In any event, the Secretary of State issued a substantive response shortly after receiving your complaint. The Secretary of State explained that the office does not maintain the records you seek, but gave helpful information about where or how to obtain the records from other offices. The response of the Secretary of State is consistent with the requirements of the APRA, and the delay in response occasioned by the failure to actually receive your original request does not make out a violation of the Access to Public Records Act.

CONCLUSION

For the foregoing reasons, I find that the Secretary of State did not violate the Access to Public Records Act.

Sincerely,

Karen Davis
Public Access Counselor

cc: Jerold A. Bonnet