

January 29, 2007

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

Re: Formal Complaint 06-FC-225; Alleged Violation of the Access to Public Records Act by the Elkhart County Recorder

Dear Mr. Stephens:

This is in response to your formal complaint alleging that Elkhart County Recorder (“Recorder”) violated the Access to Public Records Act by failing to respond to your request for records. I find that the Recorder responded to the request that is the subject of your complaint.

BACKGROUND

You filed your formal complaint on December 29, 2006. You allege that the Recorder failed to respond to the written request dated December 8, 2006 that you mailed to the Recorder. You enclosed a copy of the request. The request was signed by Dawn Graves of Graves Research, P.O. Box 781, Pooler, Georgia. The address of Graves Research matches your address on the complaint form that you submitted. I am assuming for purposes of this advisory opinion that Graves Research submitted the request and that you are complaining on behalf of Graves Research.

I sent a copy of the complaint to the Recorder. I enclose a copy of the response of the Recorder, Christopher J. Anderson. Mr. Anderson pointed out that his office has never received a request in your name. The request of Dawn Graves of Graves Research was received by the Recorder on December 19 and a response was sent out later that day. He enclosed a copy of the response. Mr. Anderson disputes that the Recorder failed to respond to the request that is the subject of your complaint, and further states that the Recorder has received no record request in your name.

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 Recorder is a public agency under the APRA. IC 5-14-3-2(1)(2). 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).

The Recorder averred that the request of Graves Research was received on December 19 and the Recorder responded the same date. The response of the Recorder was sent well within the seven day timeframe for responses to mailed requests. The response of the Recorder appears to be consistent with the requirements of the Access to Public Records Act. The Recorder has requested additional information concerning the records you seek. I recommend that you contact the Recorder and give the Recorder your telephone number to facilitate communication regarding your request.

CONCLUSION

For the foregoing reasons, I find that the Elkhart County Recorder did not violate the Access to Public Records Act.

Sincerely,

Karen Davis
Public Access Counselor

cc: Christopher J. Anderson