



STATE OF INDIANA

MITCHELL E. DANIELS, JR., Governor

PUBLIC ACCESS COUNSELOR
ANDREW J. KOSSACK

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)233-9435
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

April 26, 2010

Mr. Thomas J. DeArk
P.O. Box 2062
Clarksville, IN 47131

Re: Formal Complaint 10-FC-79; Alleged Violation of the Open Door Law by the Town of Clarksville Redevelopment Commission

Dear Mr. DeArk:

This advisory opinion is in response to your formal complaint alleging the Town of Clarksville Redevelopment Commission (the "Commission") violated the Open Door Law ("ODL"), I.C. § 5-14-1.5-1 *et seq.*

BACKGROUND

In your complaint, you allege that on March 18, 2010, the Commission held a meeting in the executive conference room of the town hall. You claim that the Commission failed to post proper notice of this meeting. You state that the Commission did not post notice of the meeting until the afternoon of March 18th.

I note that my office forwarded a copy of your complaint to the Commission, but we have not yet received a response. Consequently, my opinion assumes the veracity of the allegations in your complaint and my conclusions herein are subject to change if applied to different factual circumstances.

ANALYSIS

The General Assembly enacted the ODL with the intent that the official action of public agencies be conducted and taken openly, unless otherwise expressly provided by statute, in order that the people may be fully informed. *See* I.C. §5-14-1.5-1. Accordingly, except as provided in section 6.1 of the ODL, all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them. I.C. § 5-14-1.5-3(a).

To that end, the ODL requires that public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting, shall be given at least forty-eight hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. I.C. § 5-14-1.5-5(a) (emphasis added). In addition to providing notice to any news media who by January 1 of the year have requested notice, the agency must post notice at the principal office of the agency or, if there is no office, at the building where the meeting will be held. I.C. § 5-14-1.5-5(b). Thus, if the Commission failed to post notice of the March 18th meeting at least 48 hours in advance, it violated the ODL.

CONCLUSION

For the foregoing reasons, it is my opinion that if the Commission failed to post notice of its March 18th meeting at least 48 hours in advance, the Commission violated subsection 5(a) of the ODL.

Best regards,

A handwritten signature in black ink that reads "Andrew J. Kossack". The signature is written in a cursive style with a large, sweeping initial "A".

Andrew J. Kossack
Public Access Counselor

Cc: Town of Clarksville c/o Richard Dickman