



STATE OF INDIANA

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May 10, 2010

Mr. Cleverly P. Lockhart
DOC # 895563
MCF 3038 West 850 South
H-145
Bunker Hill, IN 46914-9810

*Re: Formal Complaint 10-FC-88; Alleged Violation of the Access to
Public Records Act by the Howard County Clerk's Office*

Dear Mr. Lockhart:

This advisory opinion is in response to your formal complaint alleging the Howard County Clerk's Office (the "Clerk") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.*, by denying you access to public records. A copy of the Clerk's response to your complaint is enclosed.

BACKGROUND

In your complaint, you allege that the Clerk ignored your March 22, 2010, request for access to copies of court filings. In response, the Clerk states that she forwarded your requests to the judge in a timely manner and provided you with the records you requested.

ANALYSIS

The public policy of the APRA states, "[p]roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." I.C. § 5-14-3-1. The Clerk does not contest that it is a "public agency" under the APRA. I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the Clerk's public records during regular business hours unless the public records are excepted from disclosure as nondisclosable under the APRA. I.C. § 5-14-3-3(a).

A request for records may be oral or written. I.C. §5-14-3-3(a); §5-14-3-9(c). If the request is delivered by mail or facsimile and the agency does not respond to the

request within seven (7) days of receipt, the request is deemed denied. I.C. §5-14-3-9(b). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. I.C. §5-14-3-9(a). A response from the public agency could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply.

Here, I am not convinced that the Clerk ever denied your request within the meaning of the APRA. *See* I.C. §§ 5-14-3-3; 5-14-3-9. Rather, it appears the Clerk responded to your request within seven (7) days and made a good faith effort to provide you with the record you requested. It is my understanding that the Clerk's chronological case summary also shows that the Clerk responded to you in a timely fashion. As a result, it does not appear that the Clerk has violated the APRA.

CONCLUSION

For the foregoing reasons, it is my opinion that the Clerk did not violate the APRA.

Best regards,



Andrew J. Kossack
Public Access Counselor

Cc: Mona Myers