



STATE OF INDIANA

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August 8, 2008

Thomas Somers
608 West Lake Street
Griffith, Indiana 46319

*Re: Formal Complaint 08-FC-177; Alleged Violation of the Open Door Law
by the Griffith Fire Department*

Dear Mr. Somers:

This advisory opinion is in response to your formal complaint, filed July 14, 2008, alleging Griffith Fire Department ("Department") violated the Open Door Law ("ODL") (Ind. Code 5-14-1.5) and the Access to Public Records Act ("APRA") (Ind. Code 5-14-3). A copy of the Department's response to the complaint is enclosed for your reference. It is my opinion that if the meetings at issue were meetings of a governing body of a public agency, the meetings should have been held in compliance with the ODL.

BACKGROUND

You filed a complaint on July 17, 2008, alleging the Department violated the ODL and the APRA. In your complaint you provide background and allegations related to an open bidding process. Because the bidding process of public agencies is outside the purview of this office, I will address only the issues you raise related to the ODL and the APRA. You allege the Department violated the ODL by holding a number of meetings from March to July 2008 related to the bid process at issue. You allege that the ODL was violated, but you do not indicate which governing body violated the ODL. You do not provide any information regarding a claim that the Department violated the APRA. You requested priority status but did not allege any of the reasons for priority status listed in 62 IAC 1-1-3, so priority status was not granted.

The Department responded to the complaint by letter dated August 4 from attorney Robert Schwerd. Mr. Schwerd admits there were some violations of the ODL. The violations he cites are your exclusion from at least two meetings and no notice provided for two other meetings. Mr. Schwerd addresses substantive issues related to the bid process, which as I indicated I do not address here.

ANALYSIS

It is the intent of the Open Door Law 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. I.C. § 5-14-1.5-1. Except as provided in section 6.1 of the Open Door Law, 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).

Neither the complaint nor the response provide information regarding which governing body held the meetings at issue. If the meetings were meetings of a governing body of a public agency, those meetings should have been held pursuant to the requirements of the ODL. Among those requirements are the requirement that meetings be open to the public, including you (*See* I.C. § 5-14-1.5-1), and that appropriate notice be provided (*See* I.C. § 5-14-1.5-5). If the meetings were not meetings of a governing body, the ODL requirements would not apply. Here, the Department has admitted to ODL violations and has indicated those violations will be corrected in the future.

As I indicated previously, the bid process to be followed by the Department is outside the purview of this office. *See* I.C. § 5-14-4-10 regarding powers and duties of the public access counselor. As such, I do not address those issues.

Finally, it is my opinion you have not made any allegations related to a violation of the Access to Public Records Act, despite having checked the “denial of access” box on the formal complaint form.

CONCLUSION

For the foregoing reasons, it is my opinion that if the meetings at issue were meetings of a governing body of a public agency, the meetings should have been held in compliance with the Open Door Law.

Best regards,



Heather Willis Neal
Public Access Counselor

Cc: Robert M. Schwerd, Hilbrich Cunningham Schwerd Dobosz & Vinovich, LLP