

April 29, 2005

Ayanna B. Wright
4848 Jefferson Street
Gary, IN 46408

Re: Formal Complaint 05-FC-61; Alleged Violation of the Access to Public Records Act by the City of Gary

Dear Ms. Wright:

This is in response to your formal complaint alleging that the City of Gary ("City") violated the Access to Public Records Act by failing to respond to your request for information. I find that the City of Gary should have responded to your request.

BACKGROUND

You sent by certified mail a letter to the City of Gary Finance Department requesting information regarding motor vehicles owned or leased by the City of Gary for 2003 and 2004. The City received your letter on February 25, 2005. In your request, you asked for a spreadsheet containing 15 categories of information for each vehicle. You alleged in your complaint filed on March 30, 2005 that the City failed to respond at all to your request.

The City of Gary has sent me a letter in response to your complaint, which I enclose for your reference. Mr. Husain Mahmoud, City Controller, stated that due to a clerical error, your request had not been forwarded to the law department for permission to release information. He admits that the City failed to timely respond. Mr. Mahmoud also indicates that the City intends to fulfill your request, but because of the nature of the information, it will be necessary for Mr. Mahmoud to coordinate with several departments. He anticipates that it will take approximately two to three weeks to gather the information.

ANALYSIS

Any person may inspect and copy the public records of a public agency during the agency's regular business hours, except as provided in section 4 of the Access to Public Records Act ("APRA"). Ind. Code 5-14-3-3(a). An agency must respond to a request for a record that the agency receives via U.S. Mail or by facsimile within seven (7) calendar days of receipt of the request. IC 5-14-3-9(b). Failure of the public agency to respond timely to a request is deemed a denial of the record.

The City concedes that it did not meet the requirements of the Access to Public Records Act because it failed to respond within seven days of February 25, the date it received your request. Even if it will take more than seven days to locate responsive records and compile them, the public agency still must issue a letter acknowledging receipt of a record request, and indicating when it anticipates it will respond more fully or produce the records in question. There are no timeframes contained in the APRA for when a public agency must produce records. The public access counselor has stated that records should be produced within a reasonable time, given the circumstances.

Here, you have asked for information to be compiled in a spreadsheet format of 15 items regarding each vehicle owned or leased by the City. For example, you have asked for information regarding type of fuel used, rate of fuel consumption, current mileage, and where the vehicle is garaged, among other things. If the City maintains records containing all or part of that information, it is required to make those records available for inspection and copying. The City is not required under the Access to Public Records Act to compile this information in a spreadsheet format at your request. However, the City may do so if it prefers, rather than locate a large number of records.

CONCLUSION

For the foregoing reasons, I find that the City of Gary violated the Access to Public Records Act when it failed to respond to your request for records.

Sincerely,

Karen Davis
Public Access Counselor

cc: Husain G. Mahmoud