

FOR IMMEDIATE RELEASE

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CAC PREVAILS IN PUBLIC RECORDS SUIT AGAINST OFFICE OF GOVERNOR ***Court orders release of emails related to Carrier plant deal within 30 days***

INDIANAPOLIS – Citizens Action Coalition of Indiana (“CAC”) filed a complaint in the Marion County Superior Court in June of 2017 against the Office of the Governor of the State of Indiana alleging violations of the Access to Public Records Act (“APRA”). The complaint asked the Court to enter judgment against the Office of the Governor and make the Office provide the documents CAC requested, which related to the widely publicized December 2016 announcement regarding the Carrier plant in Indianapolis.

On Monday, the Marion County Superior Court issued an order, largely ruling in favor of CAC. The Court found that:

- The three and half months of delay by the Governor’s Office responding with “what amounted to a request for clarification,” which came only after CAC “continuously” prompted it for updates, constituted an undue delay in violation of the APRA.
- Two out of the four APRA requests from CAC were “reasonably particular,” and the Court gave the Governor’s Office thirty days to provide any public records responsive to those two requests.
- The remaining two APRA requests were not reasonably particular. However, the Court ordered the Governor’s Office to meet-and-confer with CAC on those remaining two requests to determine how they can be narrowed and to come up with a schedule for the disclosure of the documents responsive to the narrowed requests.

“The ruling in CAC’s public records suit is a resounding reaffirmation of the important policy goals embodied in Indiana’s governmental transparency laws. It also reaffirms that the burden of proof for delaying or denying access must always remain on the government rather than on the person seeking disclosure,” stated William Groth, Counsel for CAC. “If this ruling stands, public officials will no longer be able to use dilatory tactics and vague claims that requests aren’t particular enough to avoid or delay disclosing public records.”

Additionally, the Court agreed with two overarching points put forth by CAC. First, rather than simply issuing a blanket statement to CAC that its requests were not reasonably particular, the Court said that the Governor’s Office should have engaged in an interactive process with CAC to come up with language agreeable to both parties. Second, APRA’s requirement that requests be reasonably particular must be applied in a manner consistent with the statute’s broad purpose of facilitating open government. The Court found that there has been a recent trend in the Indiana Public Access Counselor’s decisions limiting the ability of citizens to obtain email communications of government officials. The Court corrected this trend by applying the standard for seeking documents in court cases, which errs on the side of disclosure.

For Immediate Release, page 2

September 26, 2018

“State government officials, including the Governor’s Office, will have to engage in an interactive process with citizens who make APRA requests, rather than putting them off by telling them their requests aren’t particular but without advising them how they might make their requests particular enough,” added Mr. Groth.

“CAC has been working for over four decades to increase transparency in our government and preserve democracy in our State. This order represents one of the most significant judicial pronouncements in Indiana with respect to the issue of governmental transparency. It breathes new life into APRA’s stated public policy that government is the servant of the people, not vice versa, and that all Hoosiers are entitled to ‘full and complete information’ regarding the affairs of their state government,” concluded Kerwin Olson, Executive Director of CAC.

A copy of the order and related documents are available upon request.

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